



A. No.5800 of 2022 in T.O.S. No.34 of 2019

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**A. No.5800 of 2022 in T.O.S. No.34 of 2019, T.O.S. Nos.15 of 2006,
34 of 2019 and C.S. Nos.309 of 2017 & 563 of 2007**

N.SESHASAYEE, J.

There are two wills executed by the same testator, one on 11.07.2002 and another on 27.03.2004.

2. The applicants are stated to have taken out an application in A. No.4950 of 2022, wherein this court has appointed a Forensic Expert for comparing the signature of the testator in both the Wills. This is now challenged by the plaintiffs/propounder of the Will dated 27.03.2004 in O.S.A. No.177 of 2022.

3. In the meantime, the propounder of the Will dated 11.07.2002, namely the plaintiffs in T.O.S. No.34 of 2009 have come out with the present application for initiating action against the propounder of the other will under Section 340 Cr.P.C.

4. This court, *prima facie* considers that this application is too premature and that the plaintiffs in T.O.S. No.34 of 2019 may have to wait for a finding that



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the Will dated 27.03.2004 is a fabricated one. At this juncture, the learned counsel for the applicants offers to withdraw the application. The applicants are at liberty to file an application under Section 340 Cr.P.C once the cause is made out.

21.12.2022

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