



A.Nos.931 and 932 of 2023
in T.O.S.No.2 of 2012
and C.S.No.167 of 2007
and C.S.No.744 of 2009

N.SESHASAYEE.J.,

The evidence is being recorded in T.O.S.No.2 of 2012, where 2nd plaintiff, one of the legatees is being examined as PW.1 and he has introduced a Will and the same has been come to be marked as Ex.P1. The objection by the defendants is that the Will could be marked only through the attestors.

3. There is a world of difference between introducing a document in evidence and proving the document in the manner that law requires. A propounder of the Will has only introduced the Will in the evidence, and mere marking of the document through the propounder cannot be equated to proving the very Will through the attestors. This distinction is too firmly rooted in procedure and hence this Court considers that the apprehension of the applicant is misplaced.

4. In view of this, this Court has not considered it necessary to stop the examination of witnesses. **The matter is directed to be placed before the learned Additional Master No.III on 06.03.2023 for resumption of trial.**



N.SESHASAYEE,J.,

Anu

5.Learned counsel for the plaintiff submitted that PW.1 is a senior citizen and has certain cardiac issues to negotiate and prays that a time limit might be fixed for completing the cross examination.

6.Learned Additional Master No.III is required to take note of the same and try to grant preference to this case.

7.With the above said directions, these applications are disposed of.

20.02.2023

Anu

A.Nos.931 and 932 of 2023
in T.O.S.No.2 of 2012
and C.S.No.167 of 2007
and C.S.No.744 of 2009