A.No.1192 of 2023 in

C.S.No.635 of 2015

R.N.MANJULA,J.

This application has been filed by the defendants 1 and 2 seeking for appointment of an Advocate Commissioner to record the evidence of all the parties to the suit.

2. The learned counsel for the applicants / defendants 1 and 2 submitted that the defendants 1 and 2 reside permanently in United States of America and the defendants 3 to 5 reside in Saudi Arabia. Since it is not possible for D1 to D2 to travel from United States of America to give evidence and the defendants 3 to 5 were also residing at Saudi Arabia, if a Commissioner is appointed and the time is fixed, the evidence will be recorded.

3. Though the plaintiffs do not have any objection to get the evidence recorded through appointment of an Advocate Commissioner, the defendants 3 to 5 opposed the same by stating that they will be very much available before the Master to get themselves examined.

4. The learned counsel for the applicants / defendants 1 and 2 submitted that they do not have any objection as to the manner in which the shares are prayed by the plaintiffs.

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5. In that case, the defendants 1 and 2 cannot have any scope for cross examining the plaintiffs' side witness and the contesting parties are only the defendants 3 to 5. The defendants 3 to 5 are not willing to be examined through the appointment of Advocate Commissioner. The parties are living abroad. However it is possible for the parties who intends to cross-examine any of the witnesses by getting the dates fixed and then to proceed with the trial.

6. In view of the same, the matter is ordered to be listed before the Additional Master – II on 12.07.2023 for the purpose of recording evidence. The parties are directed to appear before the Additional Master – II on the above said date.

7. With these observations, this application is disposed. However, the learned Master is directed to bestow his best attention to see the progress in a fixed manner and to finish the trial preferably within a period of three months.

23.06.2023

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