



A.No.1604 of 2023 in
C.S.No.325 of 2013

R.N.MANJULA,J.

This application has been filed to grant leave to receive the documents morefully described in the schedule to the accompanying judge's summons.

2. The applicants are the defendants 16 to 18. This application has been filed to receive additional documents. The defendants 16 to 18 have been impleaded subsequent to the death of 15th defendant who is their father. The matter is pending for recording the evidence of D.W.1 who is the first defendant in the suit. The deceased first defendant is the mother of the applicants / D16 to D18. It is submitted by the learned counsel for the applicants that after the death of D1, they were segregating the documents at home and during that time, they found certain important documents relevant to the case and they can prove that the suit property was in the absolute enjoyment of the first defendant.

3. Some of the documents which the applicants produced before this Court are listed as under:

(i) The copy of the planning permission obtained by the applicants' mother for construction of building in the suit property;

(ii) challan for admission fee issued by the Corporation of Chennai;

(iii) challan for license fee issued by the Corporation of Chennai;



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(iv) letter from Assistant Executive Engineer to the applicants' mother G.Saroja, granting permission for demolition and reconstruction of the building in the suit property;

(v) challan of payment to the Secretary, Indian Overseas Bank.

4. The learned counsel for the respondents / plaintiffs 1 to 7 filed their counter by stating that no reason has been stated as to why the documents have not been produced before the Court at the earliest point of time and also why these documents were not filed by the deceased first defendant while she was alive; the applicants' claim right over the suit property by alleging that their father late Subramania Mudaliar bequeathed the suit property in favour of their mother; but in the report of the handwriting expert it is already proved that the Will is a forged one and the signature of the Will is not affixed by their father; this application has been filed just to drag the proceedings.

5. This application has been filed just to receive certain documents while the defendants' evidence was still pending. Admittedly, the first defendant in whose possession the documents were available is no more now. The applicants had the occasion to get these documents, when they arranged the documents at their home subsequent to the death of their mother. The defendants 16 to 18 have been impleaded as legal heirs of the deceased 15th defendant (who is their father) and they are the naturally interested parties. Since the first defendant is no more, it cannot



be explained by the applicants about the reasons as to why the first defendant did not opt to produce these documents. The very contention of the applicants / defendants 16 to 18 is that their father had executed the will in favour of the deceased mother / first defendant and that the first defendant was in sole enjoyment of the property. In view of the same, I feel an opportunity should be given to the applicants to produce these documents, however subject to the proof and relevancy.

6. In view of the above stated reasons, this application in A.No.1604 of 2023 is allowed.

28.03.2023

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