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A.No.2050 of 2023



**Appl.No.2050 of 2023
in
TOS.No.13 of 2021**

K.KUMARESH BABU,J

The instant application had been filed seeking to receive additional documents listed in the schedule.

2. Mr.S.Chandrasekaran, the learned counsel appearing for the applicant would submit that the documents that sought to be marked are more relevant to the claim of the applicant. He would submit that Item Nos 1 to 3 are the books containing the interview of the testator which would be very relevant to substantiate or disprove the statement of the evidence of PW-1. The documents listed in item No.4 to the list of the petition is the evidence of S.P.Kanthasamy Thevar, which would also throw light as to the claim of the applicant. Hence he would request this Court to permit the applicant to mark the aforesaid documents.

3. Countering his argument, Mr.V.Vijayaraja, learned counsel appearing for the respondent would submit that those documents could not be marked. He would contend that the documents in item Nos. 1 to 3 are publication of a book and it cannot be marked through the applicant. The



contents of it, could only be marked through the editor of the book. Further he would submit that the evidence is also of no help to the applicant and he would submit that the applications have been moved by the applicant only to drag on the proceedings. He would further submit that the applicant in his application had specifically made a statement that the trial should be taken on day-to-day basis, which has also been indicated by this Court in its earlier orders. Therefore, he would request this Court to reject the application and direct the completion of the trial as expeditiously as possible.

4. I have considered the rival submissions made by the respective counsels appearing on either side and perused the materials placed on record.

5. The documents that are sought to be marked at the outset have no relevance to the facts of the case. The documents 1 to 3 are sought to be marked to substantiate a claim that the said testator of the Will was in sound mind. Firstly, documents 1 to 3 are publication of a book named “Madaimani”, to receive such a document, the applicant could not be a proper person. If the documents that are to be marked, then it is open to him to issue subpoena to the editor to prove such interview. Further, in the



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application there is no pleading as to how the document No.4 listed in the judge's summon would be relevant document to the dispute in issue. Hence, I find no reasons to allow this application and accordingly, the same is dismissed. There shall be no order as to costs.

6. It is seen from the various orders passed by this court dated 01.10.2021, 25.04.2022 & 18.07.2022, this Court has fixed the time line for disposal of the TOS as also the Transferred Civil Suit (TrCS). Unfortunately the said time line has not been followed. Therefore this Court has directed the learned counsel appearing on either side to file a joint memo and they have also filed a joint memo indicating various time lines. It is also noted that the various parties to the joint trial are not before this Court. Hence, considering the same, the TOS as well as TrCS are directed to be placed before the first Additional Master for continuation of recording of evidence on 06.06.2023 and he shall proceed to record the evidence, within a period of three months thereafter, at any cost not later than 15.09.2023.

19.04.2023

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