



CMP.No.9845 of 2023

in A.S.No.32 of 2020

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T.V.THAMILSELVI, J.

During the pendency of the appeal, the appellant has filed an application in CMP.No.9845 of 2023 for adducing additional evidence and to record the unregistered Will dated 25.08.2006, said to be executed by her sister Swarnam in her favour, during the pendency of the suit proceedings.

2. The learned counsel for the respondents / plaintiffs raised a strong objection stating that the 2nd defendant filed a written statement before the trial Court, but not contested the case, only in the execution proceedings she has raised the objection. But, before that, Commissioner was appointed and final decree also passed. Based on that, Execution application was filed. Now to drag on the proceedings and with an ulterior motive she produced the Will claiming that the deceased sister executed a Will in her favour.

3. Further she has also pointed out that she has filed set aside



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petitions before the executing Court, which was strongly objected by the deceased sister Swarnam and in such circumstances, there is no possibility of execution of Will in her favour. Based on that she claims that the said Will was fabricated by the petitioner for unlawful gains.

4. Considering both side submissions, before passing any order with regard to amend and alter the shares based on the Will, the petitioner is bound to prove the genuineness of the Will. Since the respondents / Plaintiffs raised strong objection and also known to the genuineness of the Will.

5. Accordingly, this petition stands allowed. Therefore, this court is inclined to direct the learned III Additional District Judge, Dharapuram, Tirupur District to record the evidence with regard to the genuineness of the Will. The petitioner is directed to produce all the witnesses before the trial Court and the respondents are also permitted to cross-examine the witnesses. The trial Court is directed to send the



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evidence as well as the records to this Court on or before 21.09.2023.

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6. Both side parties are directed to appear before the trial Court on
12.09.2023.

04.09.2023

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and

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