



A.No.3042 of
in O.P.No.526 of 2022

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R.N.MANJULA, J.

This application has been filed by a third party seeking to implead himself as a party to the proceedings.

2. The respondent / petitioner has filed the above Original Petition for seeking probate in respect of the Will dated 17.01.2022 executed by the testator. While the respondent claim himself as step children of the deceased testator, the third party petitioner claims himself as II Class legal heir of the deceased. The genealogy tree has also been filed by the learned counsel for the applicant to show how the applicant is related to the deceased.

3. The learned counsel for the respondent / petitioner filed the counter claiming that the applicant cannot file a party impleading application in the above Original Petition filed under Testamentary jurisdiction. However he submitted that once the petitioner / third party comes to know about the proceedings, he has to invoke Order XXV Rule 51 and 52 C.P.C. to file caveat and raise objections. Only if such a procedure is invoked, the Original Petition can be converted into a Testamentary Original Suit.

4. At this juncture, the learned counsel for the applicant / third party submitted that he may be permitted to withdraw this application with a liberty to file a fresh caveat.

5. Considering the request of the learned counsel for the applicant, this application is allowed to be withdrawn with liberty given to the applicant to file a fresh caveat.

20.07.2023

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