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A.No.4863 of 2022
in T.O.S.No.104 of 2013
and A.No.3764 of 2022
in T.O.S.No.91 of 2013
and O.P.No.411 of 2003

N.SESHASAYEE.J.,

Two testamentary original suits were laid, one for probate and another for Letters of Administration of the Will said to have been executed by the parents of the parties herein. The trial is complete but for the examination of the attesting witness to the Will in T.O.S.No.91 of 2013. At this point, the plaintiff in T.O.S.No.104 of 2013 has taken out an application in A.No.4863 of 2022 for segregating both the testamentary original suits. He has a point but he has come to the Court at a stage when it is difficult for the Court to entertain this application. After all, the trial is substantially completed and only the attesting witness in T.O.S.No.91 of 2013 needs to be examined. This would mean that both the parties have to segregate the evidence in both the testamentary original suits separately at the time of argument to provide convenience to the Court while hearing the matter. Hence, A.No.4863 of 2022 is closed.

2.The plaintiff in T.O.S.No.91 of 2013 has taken out an application in A.No.3764 of 2022 for a direction to the 2nd defendant / caveator to tender evidence on his side.



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N.SESHASAYEE, J.,

kas

He is one of the attesting witnesses to the Will but not a legatee under the Will. In the meantime, the plaintiff has also taken out an application for summoning the other attesting witness and the summons too has been served on the witness. A request was made on behalf of the said witness before the learned Additional Master No.III for an adjournment and the same was granted.

3.Learned counsel for the plaintiff in T.O.S.No.91 of 2013 is directed to take fresh summons on the said attesting witness. Post the matter before the learned Additional Master No.III.

10.01.2023
(1/2)

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