



A.No.2009 of 2024
in TOS.No.21 of 2020

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Reserved on: 12.04.2024

Pronounced on: 18.04.2024

P.B.BALAJI, J.,

This application has been taken out by the 1st defendant to receive three additional documents, namely, Under Graduation Degree certificate of the applicant/1st defendant, Hand-Written note written by the applicant's late father, Mr.G.V.N.Rayudu and Obituary of the applicant's late father, Mr.G.V.N.Rayudu, published in newspaper.

2.The applicant/1st defendant has filed an affidavit in support of the application stating that these documents could not be filed along with the written statement since he is permanently residing in United States of America and these documents are available at his in-laws place at Hyderabad, Telangana and only when the matter was posted for his evidence, he was able to trace the documents from his in-laws place and procure the same.

3.The respondent/plaintiff filed a counter affidavit denying the claims made by the applicant/1st defendant on the ground that there is no



produced in the written statement and after completion of evidence of P.W.1 to P.W.4, the applicant wants to fill up the lacuna in the pleadings by producing these documents. A strong objection is taken to the alleged handwritten note of the applicant's father, G.V.N.Rayudu on the ground that the same is irrelevant and also not falling within the definition of “documents” in terms of Section 3 of Indian Evidence Act.

4.I have heard Mr.V.Nikul, learned counsel for M/s.G.Vijay Anand Associates for the applicant and Mr.T.Karunakaran, learned counsel for the respondent.

5.The proceedings are arising out of a testamentary instrument. The defendant, who is opposing the grant in favour of the executor, has come up with the present application. The 1st and 3rd documents are photocopies of the applicant's Under Graduate Degree and obituary in a newspaper, pertaining to the applicant's late father, G.V.N.Rayudu. In respect of the 1st document, the learned counsel for the applicant/1st defendant submits that the originals would be produced at the time of marking of the document and the same can be compared and the photocopy can be marked thereafter. In so far as the 3rd document is concerned, the learned counsel for the applicant would submit that the original of the



newspaper would be filed at the time of marking. In so far as the 2nd document is concerned, it is an alleged hand written note of the applicant's father, late G.V.N.Rayudu. The document neither bears any signature of the said G.V.N.Rayudu nor any date. The learned counsel for the applicant would submit that the said document was a hand written note by the testator himself at the time of seeking alliance for his son, namely the applicant/1st defendant. However, the said document bears an endorsement stating that it has been received from G.V.N.Rayudu by Mr.N.Shivprasad on 17.05.1989. The said N.Shivprasad is not a party to these proceedings and the document also does not come from proper custody.

6.Moreover, I do not find the said hand written note, to be relevant, leave alone, being admissible for the purpose of the present Testamentary Original Suit which involves the only question, namely the truth and genuineness of the Will said to have been executed by G.Sarojini and not even late, G.V.N.Rayudu.

7.This Court is concerned only with adjudicating the truth and genuineness of the alleged last Will and testament of G.Sarojini. Therefore, the hand written note of the father of the applicant, G.V.N.Rayudu is not relevant for deciding the *lis* in the above TOS. Therefore, the document



which is the hand written note alleged to have been executed by the applicant's father cannot be received in evidence. The other two documents, namely documents 1 and 3 may be received subject to admissibility, proof and relevancy and of course, on production of the originals of those two documents, either for comparison or for marking the originals itself.

8. In the result, this application is partly allowed.

18.04.2024

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