



A.No.2801 of 2024
& TOS.No.23 of 2003
& TOS.No.36 of 2006

P.B.BALAJI,J.

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This application is filed by the defendant in TOS.No.23 of 2003 seeking to receive the additional written statement in TOS.No.23 of 2003.

2.I have gone through the affidavit filed in support of the application and the reasons, seeking to receive additional written statement, are set out in paragraph Nos.5 and 6 of the affidavit.

3.Mr.M.S.Mani, learned counsel represents the respondent/plaintiff has filed a counter affidavit through the respondent/plaintiff, where he refers to the pendency of the above TOS before the Additional Master where the suit has been adjourned on several occasions for examination of P.W.1 and P.W.2. He would therefore state that after commencement of trial, the additional written statement cannot be received as sought for by the defendant. It is also submitted that the applicant/defendant cannot claim the entire compensation in LAOP.No.955 of 2013 and the Will dated 09.03.2002 is forged and fabricated document. He would therefore pray for the application to be dismissed.

4.I do not see any serious prejudice caused by receiving the additional written statement. The contentions set out in the additional written statement will form part of the pleadings and can always be tested, especially, since the defendant is yet to enter the witness box. I do not find any harm caused to the respondent/plaintiff if the additional written statement is received, especially, because mere receipt of the additional written statement is not going to further the defence of the applicant/defendant and it is incumbent



on the defendant to establish all contentions put forth in the additional written statement by leading satisfactory oral and documentary evidence during trial of the TOS. In the interests of justice, I am inclined to allow the application.

5.The application is allowed accordingly and the additional written statement is ordered to be received.

6.Post the matter before the Additional Master II on 08.07.2024 for continuation of cross-examination of P.W.2.

27.06.2024

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