



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 11.07.2024

Pronounced on: 12.07.2024

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A.No.3006 of 2024

in

TOS.No.2 of 2015

P.B.BALAJI, J.,

This application has been filed seeking a direction to appoint an Advocate Commissioner for the purpose of continuing the recording of the evidence of PW1 and to record the evidence of PW2 at their respective residences and further permit the Advocate Commissioner to receive the records in this Suit from this Court and return the same to this Court after the recording of evidence of PW1 and PW2.

2. I have heard Mr.K.Harishankar, learned counsel for the Applicant and Mr.B.Louis Sharmila for R1 to R3, Mr.Krishna Ravindran, learned counsel for R4.

3. Though the Application has been filed to record the evidence of P.W.1, Mr.T.V.Prabhakaran also, pending the Application P.W.1 appeared in person in Court and he has already been examined, this Application therefore, survives only in respect of P.W.2. The learned counsel for the Applicants submits that P.W.2 viz., Mr.T.V.Sridharan is not in a position



to be present before the Court for examination because of his age and poor health condition. Hence, he prays for the Application being allowed.

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4. The learned counsel for the respondents fairly concede that they have no objection for the application being allowed, subject to the evidence being recorded at the residence of P.W.2 in the presence of an Advocate Commissioner, as well as the learned counsel on either side.

5. I have gone through the affidavit filed in support of the Application and I am satisfied with the reasons assigned in the said affidavit. Accordingly, this Application is **partly allowed**.

6. ***Mrs.C.Kanakavalli, Enrolment No.2053/2004, Women Lawyer Association, High Court Buildings, Chennai – 600 104; Mobile No: 99520 63826***, is appointed as Advocate Commissioner to record the evidence of PW2 at his residence. The applicant shall pay a sum of Rs.20,000/- (Rupees Twenty Thousand only) towards remuneration of the Advocate Commissioner.

7. The learned Advocate Commissioner is permitted to receive the original marked exhibits, including the original Will dated 14.08.2000, from



the Registry, for the purpose of examination of Mr.T.V.Sridharan (P.W.2) at his residence.

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8. Registry is directed to hand over the original marked exhibits including the Will in a sealed cover and the learned Advocate Commissioner shall ensure that the same is returned safely after the examination is over, by placing it in a sealed cover.

9. The learned counsel for the parties are permitted to be present at the time of examination of the witness viz., Mr.T.V.Sridharan (P.W.2). Such examination shall be completed on or before **25.07.2024** and list the matter before this Court on **29.07.2024**, for filing report.

10. Post the matter on **29.07.2024** for filing report of the Advocate Commissioner.

12.07.2024

rkp

Note: Issue order copy today (12.07.2024)



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P.B.BALAJI, J.

rkp

**Pre-delivery Order in
A.No.3006 of 2024
in
TOS.No.2 of 2015**

12.07.2024