



Application No.3663 of 2024

**Orders Reserved on
12.09.2024**

**Orders Pronounced on
19.11.2024**

Application No.3663 of 2024
in
C.S.No.233 of 2020

RMT.TEEKAA RAMAN, J.

The petition is filed under Order XIV Rule 8 of the Original side Rules read with Section 24 of the Code of Civil Procedure, 1908.

2. The above suit for partition of 1/3 share in the schedule mentioned suit property between the plaintiff and the respondent/defendant and it was numbered as C.S.No.233 of 2020 along with two applications in O.A.No.422 of 2020 and 423 of 2020. Now the suit is under trial before the II-Additional Master Court by filing Proof Affidavit and marking of Documents as Exhibits P1 to P28 through PW1. On the said date, one of the documents of Will dated 26.09.2007 in the plaint Document No.12 which is unmarked because the Hon'ble Master was pleaded to not accept the marking through PW1 who is not a party to the Will duly executed by Mr.Simroyalu. The Hon'ble Master was pleaded to direct the plaintiff to mark the documents through the attesting witness in the aforesaid Will.



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3. The present application is filed seeking permission to the plaintiff to mark the original document of the Will dated 26.09.2007 through one of the attesting witness Ganesan. Permission to mark the Will was allowed by this Court to mark as a plaint document in Application No.946 of 2021 in C.S.No.233/2010, by its order dated 22.06.2021.

4. Since it is a civil proceedings, this Court is not expressing any opinion as to the truth, genuineness and validity of the Will as the same has to be proved in accordance with the Indian Succession Act and the Indian Evidence Act as required. Now, the plaintiff has filed a suit claiming the right under the Will. To mark the Will, he proposed to examine the alleged attesting witness and hence, this application is allowed. The document may be marked through the attesting witness since it is an unregistered document.

5. Learned Master is required to mark the Adhar Card of the PW2 as one of the document and subject to prove relevancy as required under the Civil Procedure Code and also to be tested subject to the Indian Succession Act and the Indian Evidence Act.



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6. Accordingly, this application in A.No.3663 of 2024 is allowed.

19.11.2024

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