A.No.2938 of 2025
in
T.O.S.No.34 OF 2015

MASTER
22.09.2025

ORDER

1. This application is filed by the applicant who is the plaintiff in the above TOS seeking return of the original documents filed by him and marked as Ex.P2 to Ex.P14 which is morefully described in the petition annexure.

2. The learned counsel for the applicant submitted that the applicant filed O.P.No.22 of 2015 U/s 232 and 276 of Indian Succession Act r/w Order 25, Rule 5 of Original Side Rules for grant of Letters of Administration of the last Will and Testament of the applicant's father K.Ramanathan (deceased) and the same was converted as TOS No.34 of 2015. Since the said Will was disputed by the mother of the applicant Mrs.Seethalakshmi Ramanathan and sister of the applicant Indra Jayaraman and the other defendants have given consent affidavit. It is the further contention of the counsel for the applicant that the TOS was allowed on 04.12.2024 and now this application for return of original documents filed by the applicant and marked as Ex.P2 to P14. The reasons stated by the applicant is to enable him to produce the said documents before the Revenue Department to complete the remaining official formalities in relation to the "Will".

3. The learned counsel for the respondent has filed his counter affidavit raising objections that she has filed an appeal before the Division Bench of the Hon'be High Court in O.S.A.No.150 of 2025 on 09.04.2025 and the applicant herein has allowed a caveat, when the appeal came up for hearing on 16.04.2025, the caveator who is the applicant herein was represented by a counsel and the appeal was admitted after hearing both sides on 16.04.2025 and the same is pending. The applicant herein has filed the present application on 22.04.2025 by suppressing the pendency of OSA No.150 of 2025 and hence the application for return of original documents which has been marked as Exhibits is not maintainable and is liable to be dismissed.

4. Heard both side counsels and perused the materials on record. Before going into the merits of the case it would be appropriate to refer to the relevant provision under Order XIII, Rule 9 (1) which runs as follows:-

> ***9.*** *Return of admitted documents.- (1) Any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit and placed on the record shall, unless the document is impounded under Rule 8, be entitled to receive back the same-*
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> *(a) where the suit is one in which an apeal is not allowed, when the suit has been disposed of, and*

(b) where the suit is one in which an appeal is allowed, when the court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred or, if an appeal has been preferred, when the apeal has been disposed of:

[Provided that a document may be returned at any time earlier than that prescribed by this rule if the person applying therefor-

(a) delivers to the proper officer for being substituted for the original-

(i) in the case of a party to the suit, a certified copy, and

(ii) in the case of any other person, an ordinary copy which has been examined, compared and certified in the manner mentioned in sub-rule (2) of Rule 17 of Order VII, and

(b) undertakes to produce the original, if required to do so:]

Provided also that no document shall be returned which, by force of the decree has become wholly void or useless.

5. From the above provision it is seen that the documents produced in a suit may be returned only after disposal of the suit and after the period of appeal has expired, or if an appeal has been preferred, only after disposal of such appeal. In the present case, since the appeal is admittedly pending, this Court cannot return the original documents marked as exhibits at this stage. The proviso to Rule 9 of Order 13 empowers the Court to allow return on substitution by certified copies, but that discretion must be exercised

sparingly and only when justified by exceptional circumstances. From the affidavit of the applicant the reasons stated by the applicant for seeking return of original documents marked as Ex.P2 to Ex.P14 morefully described in the applicant is to enable him to produce the said documents before the Revenue Department to complete the remaining official formalities in relation to the "Will" which cannot be considered as a compelling grounds for return of documents when the appeal is pending. In view of pendency of appeal and the necessity of preserving the record for appellate adjudication, this Court is of the opinion that this petition is devoid of merits.

Accordingly, this application is dismissed.

MASTER