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A.No.2970 of 2025 in
TOS.No.6 of 2018 and
C.S.No.376 of 2017

C.V.KARTHIKEYAN, J.

This application has been filed to appoint an Advocate Commissioner to record the evidence of one of the attesting witness of the Will.

2. It has been stated by the learned counsel for the applicant / plaintiff that the said witness is a senior citizen of advanced age and not in a position to come over to Court to tender evidence. It is further stated that the other attesting witness had unfortunately died. Therefore, recording of evidence of this witness is absolutely essential to determine the case as projected by the plaintiff .

3. Counter has been filed on behalf of the respondent / defendant. It is contended that there is no evidence before this Court to show that the witness cannot physically come over to Court to tender evidence. Therefore, in the absence of any finding or information to that effect, it would be inappropriate for this Court to presume that the witness would not be able to come over to this Court.

4. In order to determine the actual physical status of the witness, it would only be appropriate to appoint an Advocate Commissioner. The Advocate Commissioner shall take the assistance of any registered Medical Practitioner and visit the residence of the said witness at T 86A, 29th Cross Street, Besant Nagar, Chennai 600 090. The Medical Practitioner who had



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come forward to assist the Court and whose services would be certainly appreciated, may issue a certificate about the mobility of the witness Mr.S.Jaganathan. to come over to Court to tender evidence.

5. For the above said purpose **Ms.A.Shanmukasundari, Advocate, having Office at No.367, Additional Law Chamber, High Court, Chenna 600 104, Mobile Numbers : 99527 30320 and 70105 87021**, is appointed as an Advocate Commissioner. The Advocate Commissioner may take the assistance of any registered Medical Practitioner and issue notice to both the plaintiff and the defendant and independent of the opinion expressed by the plaintiff and the defendant, permit the medical practitioner to examine Mr.S.Jaganathan and forward the certificate about his / her observations. A report in this regard to be forwarded to this Court by 11.08.2025. The initial remuneration of Rs.15,000/- is fixed to the Advocate Commissioner who may ascertain from the Medical Practitioner that whether any fees is payable to him, if so, indicate the fees by way of filing a memo.

6. The Registry to issue warrant to the Advocate Commissioner within a period of five working days.

7. List the matter on 11.08.2025.

29.07.2025

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