

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.09.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.1929 of 2016 and
CMP.No.10030 of 2016

R.Jayavelu

...Petitioner

versus

1.R.Ashok

2.R.Krishnaveni

3.R.Ramakumar

4.Kamachi Gnanapriya alias R.Kamachi

5.V.Saraswathi

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order passed on 01.02.2016 in I.A.No.17391 of 2015 in O.S.No.8236 of 2006 on the file of the III Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.S.Balasubramanian

For Respondents : Mr.S.Vasudevan

ORDER

The petitioner, who was arrayed as first defendant in O.S.No.8236 of 2006 on the file of the III Assistant Judge, City Civil Court, Chennai filed an application in I.A.No.17391 of 2015 to issue witness subpoena under Order XVI Rule 1(1) and (2) CPC. The

application was dismissed by the learned judge primarily on the ground that no purpose would be served by summoning another attesting witness after examination of another witness. Feeling aggrieved, the petitioner is before this Court with this Civil Revision Petition.

2. The first respondent filed a suit in O.S.No.8236 of 2006 for delivery of property and for damages. The suit was contested by the petitioner by filing written statement. The suit was posted for examination of defendants during February 2015. The petitioner, notwithstanding the examination of an attesting witness filed a petition to issue witness subpoena to examine another attesting witness. According to the petitioner, P.W.2 who was an attesting witness has given false evidence and as such, he wanted another witness to be examined. The petitioner earlier filed an application for examination of attesting witness. The said application was dismissed by the Trial Court on merits.

3. The petitioner wanted attesting witness to speak about the execution of the document. In short, the petitioner wanted to prove his case regarding execution of the document through the attesting witness. Since the petition filed by the petitioner to examine the

attesting witness was already dismissed by the Court earlier, there is no question of maintaining another application for the very same relief. The learned Trial Judge considered the entire background facts and dismissed the petition. The order does not call for any interference by exercising the jurisdiction under Article 227 of the Constitution of India.

4. In the up shot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

08.09.2016

Index:Yes/No
svki

To

The III Assistant Judge, City Civil Court, Chennai.

K.K.SASIDHARAN, J.

(svki)

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