

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.(PD).No.3876 of 2017 & C.M.P.No.18116 of 2017

Mr.G.Sukumar

... Petitioner

Vs.

1.Minor M.Pravin,
Rep. by his natural father
and guardian, S.Manoharan.

2.Mr.S.Manoharan

3.Mr.K.Babu

4.Mr.K.Om Prakash

5.Mrs.Kalaiselvi

6.Mrs.Ramani

7.Mrs.Sridevi

... Respondents

(RR1 & 2 are already
set exparte in the suit)

Petition filed under Article 227 of the Constitution of India, to
set aside the order dated 07.08.2017 in I.A.No.3703 of 2016 in
O.S.No.3499 of 2014 on the file of the learned III Assistant Judge, City
Civil Court, Chennai and allow the said Civil Revision Petition.

For Petitioner : Mr.A.V.Arumugam

ORDER

This Civil Revision Petition is filed to set aside the order dated 07.08.2017, made in I.A.No.3703 of 2016 in O.S.No.3499 of 2014 on the file of the learned III Assistant Judge, City Civil Court, Chennai.

2.The petitioner has filed a suit in O.S.No.3499 of 2014, before the City Civil Court, Chennai, for permanent injunction restraining the defendants from alienating or creating any encumbrance over the 'A' and 'B' Schedule suit properties. The petitioner/plaintiff filed certified copies of the Deed of General Power of Attorney and Adoption Deed and the same were marked as Ex.A1 and Ex.A3 respectively. The defendants 3 to 7, in their written statement, have stated that the defendants 1 and 2 have colluded and created the said deeds by forging the signature of M.Kamalanathan. Therefore, the petitioner filed an Interlocutory Application in I.A.No.3703 of 2016, to issue summons to the Joint Registrar, Office of the District Registrar, Central Madras, to appear before the Court and give evidence and to produce the aforesaid documents. The respondents 3 to 7 have filed the counter affidavit in the said Interlocutory Application. The Trial Court, considering the rival submissions of the parties, dismissed the

said application, by holding that the witness summons cannot be issued to the Government Officials as per the whims and fancies of the parties to the suit.

3. According to the petitioner, the judgment and decree is contrary to the provisions of the Civil Procedure Code and Civil Rules of practice and therefore, the order passed by the trial court is liable to be set aside.

4. By considering the submissions of the learned counsel for the petitioner and on perusal of the impugned order passed by the trial court, it is seen that the petitioner/plaintiff has filed the suit for permanent injunction. On the basis of the sale agreement, the defendants/respondents have attempted to sell the property and therefore, the petitioner has sought for the relief as against the respondents/defendants, not to alienate the suit property. The present Interlocutory Application has been filed for summoning the Joint Registrar, Office of the Registrar, Central Madras, for evidence and to produce the relevant original documents. Since the relief prayed for in the suit is for permanent injunction and the trial is now at the stage of recording evidence on the side of the petitioner/plaintiff, summoning of

any official witness, is wholly on the hands of the trial Court, if it thinks it necessary. Moreover, the alleged documents have been marked by the petitioner himself and the genuinity of the same would be considered by the trial Court on the basis of oral and documentary evidence. Hence, the trial Court has rightly rejected the application. Hence, this Court finds no error or illegality in the order passed by the Court below.

Therefore, the Civil Revision Petition fails and is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

25.10.2017

Index:Yes/No
abr

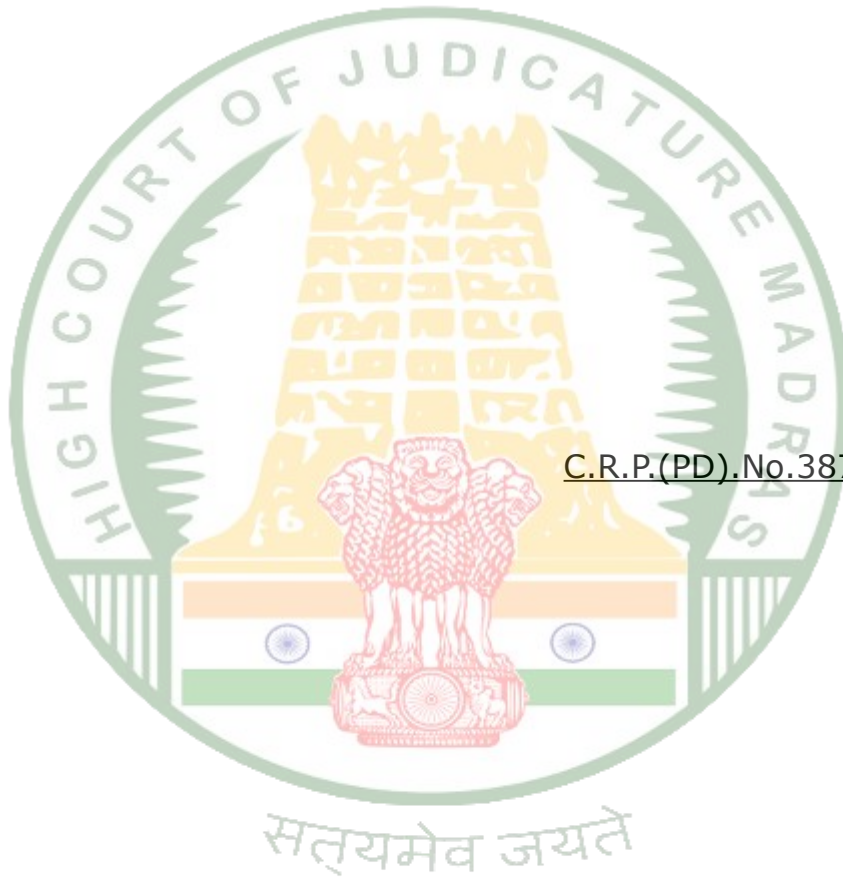
To

The III Assistant Judge,
City Civil Court, Chennai.

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D.KRISHNAKUMAR, J.

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