

A. Nos.8418 & 8419 of 2018 in
T.O.S.No.29 of 2018

K.KALYANASUNDARAM, J.

Seeking to appoint an Advocate Commissioner to examine Sri.A.Srinivasulu, residing at Old Door No.21A, New No.9, Plot No.2045, 'H' Block, 5th Street, Off 12th Main Road, Annag Nagar, Chennai - 600 040, at his residence and to obtain his evidence in T.O.S.No.29 of 2018, and to permit the applicants / plaintiffs to examine Sri.A.Srinivasulu before examination of the plaintiffs / applicants, these applications have been filed.

2.Mr.V.G.Sureshkumar, learned counsel appearing for the applicants submits that the person, viz., Sri.A.Srinivasulu, who is sought to be examined, is a senior citizen, aged about 88 years and due to age factor and the related infirmity in the body, he could not come to Court to let in evidence.

3. Ms.Poornima, learned counsel for the respondent opposed these applications by contending that father of the applicants and respondent was not in sound state of mind even at the time of executing settlement in 2009, hence, unless a certificate is produced regarding his health condition, a commissioner cannot be appointed.

4. Indisputably, the applicants are the brothers of the respondent and these applications have been filed to examine their father as one of the witnesses by appointing an Advocate Commissioner and to permit the applicants / plaintiffs to examine Sri.A.Srinivasulu before examination of the plaintiffs / applicants. It is not disputed the witness sought to be examined on commission is a senior citizen of 88 year old. According to the applicants, the witness is sound disposing of mind, however it is disputed by the respondent.

5. Taking note of the health condition, this Court is inclined to allow these applications. The acceptability and reliability of the evidence would be considered at the time of the disposal of the suit.

6. In the light of the above facts, both applications are ordered and Ms.K.Aswini Devi, Advocate, No.5, Old Law Chambers, High Court Building, Madras High Court, Chennai (Mobile No.98405 63483) is appointed as Advocate Commissioner to record the evidence of said Sri.A.Srinivasulu. The said exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order by the learned Advocate Commissioner. It is also made clear that recording of evidence will have to be done at No. Old Door

No.21A, New No.9, Plot No.2045, 'H' Block, 5th Street, Off 12th Main Road, Annag Nagar, Chennai - 600 040 after due notice to the respondent. The initial remuneration of the Advocate Commissioner is fixed at Rs.30,000/- (Rupees Thirty Thousand only), which shall be payable by the applicants forth with.

7. Post the matter on 01.10.2019

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13.09.2019

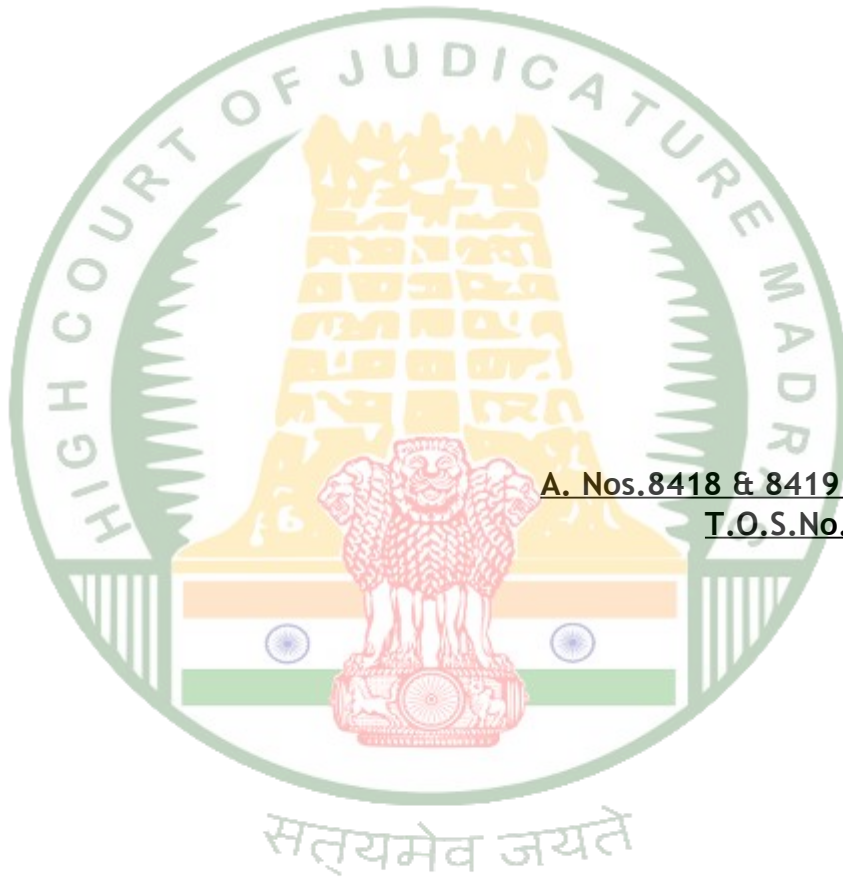
Note: Issue warrant on 16.09.2019



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