

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(PD) No.2358 of 2019
and C.M.P.No.15356 of 2019**

J.Kalaiselvi ...Petitioner

Vs.

A.P.Chelvam ...Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India as against the order and decreetal order made in I.A.No.1 of 2019 in O.S.No.4895 of 2012 on the file of learned VIII Assistant Judge, City Civil Court, Chennai dated 02.07.2019.

For Petitioner : Mr.R.Ramanlaal
For Respondent : Mr.S.Rajendrakumar

ORDER

This Civil Revision Petition is filed, as against the order and decreetal order made in I.A.No.1 of 2019 in O.S.No.4895 of 2012 on the file of learned VIII Assistant Judge, City Civil Court, Chennai dated 02.07.2019.

2. I.A.No.1 of 2019 was filed by the petitioner herein seeking to issue subpoena to the Manager, Indian Overseas Bank, 1063, Periyar EVR High Road, Arumbakkam, Chennai - 600 106 for examination on the side of the petitioner/defendant to produce a letter dated 21.07.2010 addressed to A.P.Chelvam, Proprietor of Sree Chakra Enterprises, No.6/21, Gandhi Road, Jagannathan Nagar, Arumbakkam, Chennai - 600 106, given by the Manager, Indian Overseas Bank, Arumbakkam, Chennai -600 106 and the authorized signature of the Manager working on 21.07.2010 from the documents available at Indian Overseas Bank, 1063, Periyar EVR High Road, Arumbakkam, Chennai - 600 106.

3. On considering the rival submissions made by the learned counsel on either side, the learned trial Judge dismissed the petition on the ground that the issuance of subpoena to the Manager of Indian Overseas Bank is not maintainable one and the Manager, Indian Overseas Bank was already examined as P.W.2 and the Bank statement was marked as Ex.C.1. Therefore, the trial Judge dismissed the petition as unnecessary one.

4. Against the order of the trial Judge dated 02.07.2019 in I.A.No.1 of 2019, the petitioner is before this Court with this Civil Revision Petition.

5. When the matter was taken up for hearing, the learned counsel for the petitioner submitted that he has no objection to allow this petition, and only prayed to examine all the proposed witnesses on the same day and that suit may be disposed of at the earliest possible for the reason that it is pending from the year 2012.

6. Suit in O.S.No.4895 of 2012 was filed for the relief of mandatory injunction, directing the defendant to execute the sale deed in favour of the respondent/plaintiff and for other reliefs. In the said circumstances, the petitioner deems it fit that the proposed witnesses are necessary witnesses to prove his case. However, the petition seeking to issue subpoena came to be dismissed. Now, the learned counsel for the respondent also has no objection in allowing this petition, with a condition to examine the proposed witnesses on the same day and dispose the case as

early as possible.

7.Considering the facts and circumstances of this case, considering the claim of the petitioner that the examination of proposed witnesses is necessary for the purpose of proving his case and also considering the submissions made by the learned counsel for the respondent, this Civil Revision Petition is allowed and the order dated 02.07.2019 in I.A.No.1 of 2019 on the file of the learned VIII Assistant Judge, City Civil Court, Chennai is hereby set aside.

8.The learned trial Judge is directed to issue subpoena to the Manager, 1063, Periyar EVR High Road, Arumbakkam, Chennai - 600 106, to appear before the Court, on the date to be fixed by the trial Court, to produce document and cause it to be produced and also give evidence. On his appearance before the trial Court, Chief examination and Cross examination should be completed on the same day.

9.Further the suit is of the year 2012 and it is coming under the category of old cases and it has to be given priority in conducting trial and

early disposal. Therefore, the learned trial Judge is directed to dispose of the case on merits and in accordance with law, as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order.

10. With the above direction, this Civil Revision Petition stands allowed. No costs. Consequently connected miscellaneous petition is closed.

04.08.2021

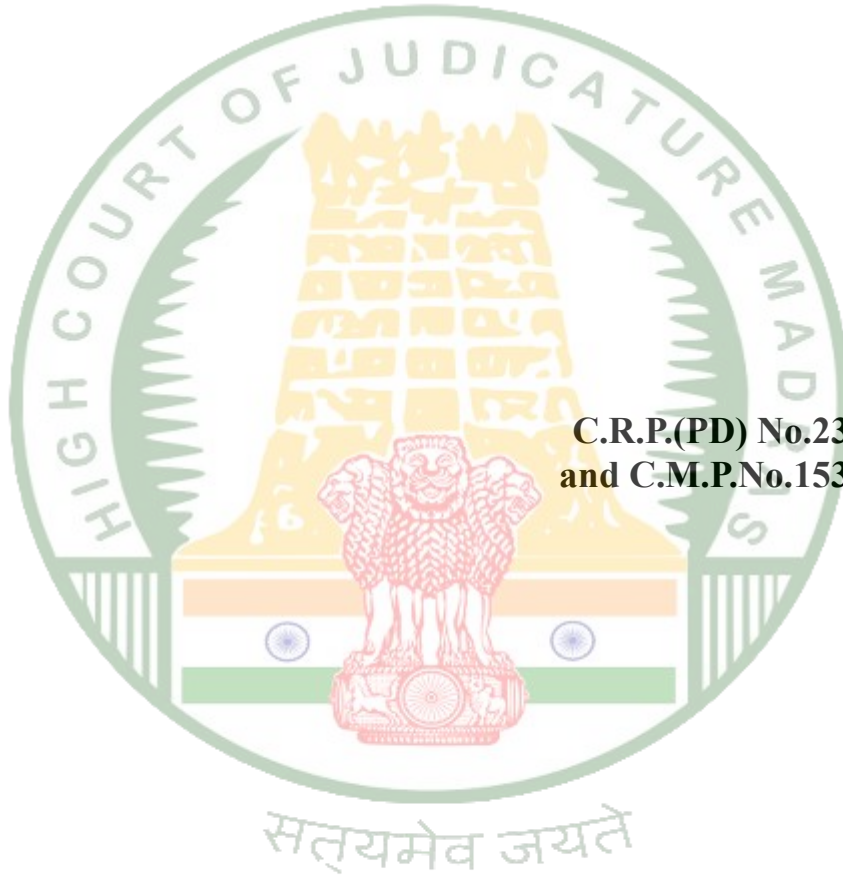
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Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

To
1. The VIII Assistant Judge
City Civil Court, Chennai.
2. The Section Officer
VR Section
High Court of Madras.

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G.CHANDRASEKHARAN.J,

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