A.No.5040 of 2023 in
CS.No.491 of 2019

N.SATHISH KUMAR, J.

This application has been filed to issue summons to the Principal Commissioner of Income Tax, Tamil Nadu and Puducherry for production of the documents listed in the schedule to the judges summons.

2. The grievance of the applicant/ defendant is that during the cross examination of P.W.1, he has deposed that the balance sheets pertaining to financial years 2014-15, 2015-16, 2016-17 were already handed over to D.W.1. However, when he was confronted during cross examination, he did not admit those documents. Hence, submitted that summons has to be issued to the Income Tax authorities to produce the documents.

3. It is the contention of the respondent that the entire transaction pertains to the year 2018 – 2019 and therefore, for proving the said transaction the Income Tax Returns pertaining to 2014-15, 2015-16, 2016-

17 is not all required. It is their further contention that it is admitted by the applicant himself during cross examination that he has already received those documents.

4. I have perused entire materials available on record. It is the contention of the applicant that the documents sought to be produced are essential to prove his case. The evidence on either side is over and suit is pending for arguments. According to the applicant, there was money transaction and therefore, Income Tax returns is required. It is the grievance of the applicant that in order to establish his case that there is no consideration passed no amount is payable by the applicant / defendant, the Income Tax returns is required.

5. It is relevant to note that the transaction between the applicant and the respondent relate to the period 2018-2019. Now the documents sought to be marked relate to the years 2014-15, 2015-16, 2016-17. In the affidavit itself, it is stated by the applicant that those document have already been given by P.W.1 himself. Such being the position, merely because

P.W.1 has not admitted those documents when confronted during the cross examination, as a matter of right, summons cannot be issued to the parties. If really, the applicant wanted to rely upon those documents to prove their case through his evidence, nothing prevented him to file those documents, which are admittedly given by P.W.1. Without resorting to such procedure, seeking omni bus direction to send for the documents cannot be entertained at this Stage, particularly, when the matter is ripe for arguments.

6. Accordingly, this application is dismissed. No costs.

7. Post the Suit for arguments on 11.10.2023.

04.10.2023

vrc

N.SATHISH KUMAR, J.

vrc

A.No.5040 of 2023 in
CS.No.491 of 2019

04.10.2023