Reserved on: 11.06.2024	Pronounced on: 14.06.2024

A. Nos.2566, 2569, 2573, 2575, 2577, 2581, 2585, 2588 to 2592 of 2024
in
C.S. No.545 of 2016

P.B.BALAJI, J.

The above Applications are filed to summon the below mentioned person as witness in C.S. No.545 of 2016:-

A.No.	*Name*	*Purpose and relevant documents*
2566 of 2024	S. Sekar, S/o. Chellaiah, No. 2181, Mullai Nagar, Sakkarakottai, PO, Ramanathapuram District.	To attend the High Court with his Ration Card, Bank pass book and Driving Licence.
2573 of 2024	Thilagam, No. 113, A.V.M. Avenue 5th Street, Virugambakkam, Chennai-600092.	To attend the High Court with her Income Tax Return for A.Y. 2010 to 2016 and documents relating to the businesses done by her.
2575 of 2024	G. Sivagnanam, Advocate, Roll No. 22/1990, G.3, Coromandel Towers, No. 816, Poonamallee High Road, Kilpauk, Chennai-600010.	To attend the High Court along with his Book of Account for a period from 01.01.2015 to 31.01.2015 and depose about the drafting of documents by him for the Defendants.
2577 of 2024	The Public Information Officer, Reserve Bank of India, Kamaraj Salai, Near	To bring the Application in connection with Challan No. 1820 dated 11.03.2016 and copy of Cheque or Draft accompanying the same,

A.No.	***Name***	***Purpose and relevant documents***
	Secretariat, Chennai-600001.	signature of the person who submitted the application to get challan and depose about it.
2581 of 2024	The I.G. of Registration Government of Tamil Nadu 100, Santhome High Road, Mandavelipakam, Chennai-600028	To bring the Registers showing the fee, charges and stamp duty received by it. The signature of the person who presented it, details of the person who received back the documents, who paid the balance of registration charges after Sec. 47A valuation in respect of Document No. 2851 of 2015 in Book-I and Document No. 926 of 2015 in Joint Sub-Registrar No. 2, Thousand Lights, Chennai along with CD in connection with the registration of the above documents .
2585 of 2024	The Chief Commissioner of Income Tax, Mahatma Gandhi Road, Nungambakkam, Chennai.	To bring the Documents relating to the returns/information lodged by Rohini Mala (PAN No.AFKPR6887D), TDS made and deposited by her in connection with the purchase of immovable property for Rs. 2,20,00,000/-, sec. 47A value was Rs. 4,38,48,822/- by a document dated 22.07.2015 through Document No. 865/2015 registered in Joint Sub-Registrar-ll, Thousand Lights, Chennai, Income Tax paid by the purchaser for difference in purchase price and Sec. 47A value, source of cash payment allegedly made by her in IT returns filed by her for the A.Y. 2011-2012 to 2017-2018 and the Legal proceeding initiated against her if any, for the violation of the Income Tax Act in connection with the above purchase transaction.

A.No.	***Name***	***Purpose and relevant documents***
2588 of 2024	The Chief General Manager, BSNL, No. 78, Purasawakam High Road, Chennai-600010.	To bring the call details of Cell phone number 9551050699 for the period 01.05.2023 to 30.04.2024
2589 of 2024	Officer in Charge, Reliance Jio Infocomm Ltd., 120, Prestige Palladium Bayan, Greams Road, Thousand Lights, Chennai-600006.	To bring the Application and Call records relating to the Cell No. 9443167068 for the periodfrom 01.05.2023 to till date and depose about the contents (Used by Ashok Kumar)
2590 of 2024	The District Revenue Officer (Stamps), Collectorate, 23, Rajaji salai, Chennai-600001.	To bring the Sec. 47A proceedings file connected with it, deficit stamp duty collected for it in connection with Sale Deed bearing Document No. 865/2015 dated 22.07.2015 on the file of Joint Sub-Registrar II, Thousand Lights, Chennai (Reference No. D.Dis 12/15 dated ..03/16) and depose about the contents of the said file.
2591 of 2024	The Chief Manager, Bank of India, R. Virugambakkam Branch, Chennai.	To bring the Statement of Account of Rohini Mala, w/o. R. Ramesh having Cell No.9551050699, Aadhar No. 9713 4659 0272, PAN No. AFKPR6887D for the period 01.01.2013 to 31.12.2016 and depose about it.
2592 of 2024	The Officer-in-Charge, Stock Holding Corporation of India Ltd., Justice Basheer Ahmad Sayeed Building Yd Floor, 45, Moore Street, 2nd	To bring the Application submitted to purchase stamp paper for R. Rohini Mala on 22.07.2015, copy of the Draft/Cheque submitted with it and signature of the person who received the stamp papers. Certificate No. IN-TN01559301847165N.

A.No.	***Name***	***Purpose and relevant documents***
	Line Beach Road, Chennai-600001	

and A. No.2569 of 2024 is filed to re-open the Plaintiffs' evidence in C.S. No.545 of 2016.

2. The common thread in all these Applications is that the suit is one for declaration of a sale deed dated 22.07.2015 as fraudulent, null and void and for other reliefs.

3. According to the plaintiffs, the plaintiffs have examined three witnesses on their side and thereafter, the 2nd defendant, examined herself as D.W.1 and she was also cross examined, and the defendant's evidence was closed on 12.02.2024. The claim of the plaintiffs is that the 2nd respondent has no source of income and the 1st respondent is a non-practising Advocate, doing money lending business and the valuable property of the plaintiffs have been grabbed under coercion.

4. The sum and substance of the present Applications is that the 2nd respondent had deposed that she did not know anything about the transaction and only her deceased husband had knowledge about the same and that the plaintiffs were expecting that the 2nd respondent would disclose the source of income in her evidence and also narrate the facts surrounding the transaction. However, in view of the 2nd respondent expressing complete ignorance, having no other option, the plaintiffs are necessitated to summon the witnesses by way of taking out the above Applications.

5. I have heard Mr. A. Sirajudeen, learned Senior Counsel for Mr. A. Mohammed Ismail, learned counsel for the Applicants in all the Applications and Mr. J. Barathan, learned counsel for the 2nd respondent.

6. Mr. Sirajudeen would contend that the defendants who claim under

a registered sale deed have miserably failed to show passing off consideration and only in order to bring the truth to light, these Applications are taken out and would impress upon in this Court that the evidence sought to be brought on record would be not only germane, but also vital to the issues involved in the suit.

7. Per contra, Mr. J. Bharathan, learned counsel for the 2nd respondent would submit that the suit has been filed to declare the sale deed as null and void. The basis of such a prayer is only on the ground that the sale deed was brought about by coercion. He would therefore state that the burden is on the plaintiffs to establish their allegations and they cannot summon witnesses, that too after closure of evidence of the defendant and enlarge the scope of trial. The learned counsel would also submit that the suit was posted for arguments and after taking repeated adjournments, without arguing the suit, the present Applications have been filed. He would also place reliance on Section 54 of the Transfer of Property Act, 1882

which defines sale and contend that passing off consideration is not necessary for establishing a sale and therefore the exercise which is now sought for by the plaintiffs is only a futile one.

8. I have carefully considered the submissions advanced on both sides.

9. Admittedly the suit has been filed to declare the sale deed executed by the plaintiffs in favour of the 2nd defendant, dated 22.07.2015 in Document No.865 of 2015 as null and void. The plaint allegations reveal that the foundation on which the suit has been filed is coercion. Therefore, as rightly pointed out by the learned counsel for the 2nd respondent, the burden is only on the plaintiffs to establish the plea of coercion. I also find that the 2nd defendant has also filed a counterclaim seeking declaration of settlement deeds executed by the plaintiffs as sham and nominal, null and void and not binding on the 2nd defendant, apart from other reliefs for

mandatory injunction and recovery of possession.

10. It is for the plaintiffs to lead evidence and prove that the sale deed was brought about by the coercion and consequently liable to be set aside,and the plaintiff cannot expect the defendant to lead evidence in a manner that the plaintiffs expect. If at all the 2nd defendant has pleaded ignorance about the surrounding circumstances and also regarding sale consideration, the plaintiffs can always insist upon the Court to draw adverse inference against the defendants. Merely, because the 2nd defendant has pleaded ignorance and the answers given by the 2nd defendant in the witness box are not to the satisfaction of the plaintiffs, it would not entitle the plaintiffs to take out Applications of the present nature.

11. As already pointed out, the evidence of the parties stands concluded and the suit is ripe for arguments. At this stage, the plaintiffs are attempting to set back the clock and enlarge the scope of trial by seeking to

issue summons to various third parties. Also, as rightly pointed out by the learned counsel for the 2nd respondent, under Section 54 of the Transfer of Property Act, 1882, sale can also be in respect of a promise to pay consideration. Therefore, merely harping on the 2nd defendant not having source to pay and therefore issue summons to concerned departments to give evidence is far fetched. I do not see any justifiable grounds for entertaining these Applications. The plaintiffs as well as the defendants already have the full opportunity to lead evidence and the suit is in the stage for arguments. At this juncture, I do not see any justification or merit, in entertaining these Applications for issuance of summons to various witnesses and departments. Consequently all Applications are dismissed.

12. Post the suit for arguments on 02.07.2024.

14.06.2024

rkp

P.B.BALAJI, J.,

rkp

Pre-delivery ORDER in
A. Nos.2566, 2569, 2573, 2575, 2577,
2581, 2585, 2588 to 2592 of 2024
in
C.S. No.545 of 2016

14.06.2024