



A. No.4475 of 2024
in
T.O.S No.8 of 2017



A.A.NAKKIRAN, J.

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This application has been filed by the applicant/plaintiff, to issue witness summons to the attesting witness Mr.A.A.Chelliah residing at Plot 'B' Maruthi Nagar Second Street, Parvathy Nagar, Old Perungalathur, Mudichur, Chennai-600063 to be examined as PW2 in the above suit.

2. Heard both side.

3. The learned counsel for the respondents /defendants strongly opposed to allow this application stating that though the present application was filed under Order XVI Rule 1 of CPC , this application would not come under the scope of Order XVI Rule 1 of CPC, since the conditions laid down in the particular provisions of CPC shall be adhered by the applicant herein in the suit as stated in the Code. But, this applicant had not presented any list of witnesses before the commencement of trial. He further submitted that the applicant herein ought to have proved the disputed Will under the provisions of Indian Succession Act read with Indian Evidence Act, and not in accordance with the provisions of CPC as claimed by the applicant and hence, this application is not maintainable either on law or on facts and the same is liable to be dismissed.



A.A.NAKKIRAN, J.



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4. Considering the facts and circumstances of the case and having satisfied with the reason stated in the affidavit filed in support of the application, this application is allowed.

5. The Registry is directed to issue summons to the attesting witness Mr.A.A.Chelliah residing at Plot 'B' Maruthi Nagar Second Street, Parvathy Nagar, Old Perungalathur, Mudichur, Chennai-600063 to be examined as PW2 in the above suit.

6. The Registry is directed to list the matter before the Additional Master -II, for recording evidence on 16.10.2024.

25.09.2024

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