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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

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THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

C.R.P.No.4380 of 2023 &
CMP.No.26587 of 2023

P. Ramu

.. Petitioner

VS

1. M. Udayakumar
2. V. Thangavel
3. S. Ashok

... Respondents

Prayer: Civil Revision Petition filed under section 227 of Constitution of India against the fair and final order dated 01.09.2023 made in I.A.No.6 of 2023 in O.S.No.55 of 2018 on the file of the District Munsif Court, Tiruchengode.

For Petitioner : Mr.D. Sathya

ORDER

This Civil Revision Petition is filed against the fair and final order dated 01.09.2023 made in I.A.No.6 of 2023 in O.S.No.55 of 2018 on the file of the District Munsif Court, Tiruchengode.



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2.The learned counsel for the petitioner submitted that the petitioner is the plaintiff in O.S.No.55 of 2018 on the file of District Munsif Court, Thiruchengode against the respondents herein praying to declare the sale deed dated 08.06.2011 executed by the 2nd defendant in favour of 1st defendant based on the Power of Attorney dated 03.05.2010 in favour of 2nd defendant as null and void and also for consequential relief of permanent injunction restraining the defendants and their men from interfering with the plaintiff's peaceful possession and enjoyment of the suit property.

3.He further contended that the third respondent's father gave a complaint on 23.03.2018 before the Thiruchengodu Police Station, but in the written statement, it was mentioned that the complaint was given by the 3rd respondent on 20.03.2018. The complaint given by the third respondent's father has been marked on the plaintiff side as Ex.A.7. The petitioner/plaintiff, in order to show that the complaint has been given on 20.03.2018, but not on 23.03.2018, wanted to summon the Sub Inspector of Police, Thiruchengode to give evidence before the trial court. Therefore he filed I.A.No.6 of 2023 before the trial court seeking



to summon the Sub Inspector of Police, Thiruchengode to give evidence.

However, the trial court, by passing the impugned order, dismissed the petition filed by the petitioner for summoning the Sub Inspector of Police on the ground that when the complaint has been marked as Ex.A.7, the issue involved in the suit does not require the evidence of Police pertaining to the complaint dated 23.03.2018. Further the court has dismissed the similar application filed in I.A.No.3 of 2023 filed by the petitioner seeking the same relief.

4. The learned counsel for the petitioner contended that to speak of the contents of Ex.A.7-complaint, the petitioner filed I.A.No.6 of 2023 seeking to summon the Inspector of Police, Thiruchengode, however the abovesiad application was dismissed holding that already a similar application filed by the petitioner in I.A.No.3 of 2023 has been dismissed. He further contended that the dismissal of I.A.No.3 of 2023 will not be a bar for presentation of I.A.No.6 of 2023. Thus he prayed for allowing the Civil Revision Petition.

5. Heard the learned counsel for the petitioner and perused the



materials available on record.

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6. On perusal of records, the fact reveals that the petitioner is the plaintiff and the respondents are defendants in O.S.No.55 of 2018 on the file of District Munsif Court, Thiruchengode. The plaintiff filed a suit against the respondent/defendants praying to declare the sale deed dated 08.06.2011 executed by the 2nd defendant in favour of 1st defendant based on the Power of Attorney dated 03.05.2010 in favour of 2nd defendant as null and void and also for consequential relief of permanent injunction restraining the defendants and their men from interfering with the plaintiff's peaceful possession and enjoyment of the suit property.

7. Further before the trial court, during cross examination, he filed a complaint dated 23.03.2018 allegedly given by the 3rd respondent's father before the Thiruchengode Rural Police Station. The 3rd defendant also filed a written statement, in which, he had stated that the complaint has been given on 20.03.2018. The complaint given on 23.03.2018 has



been marked as Ex.A7 on the plaintiff side. This court is of the view that the issue involved in the suit does not require the evidence of Police pertaining to the complaint dated 23.03.2018. Under the circumstances, summoning the Sub Inspector of Police, Thiruchengode for giving evidence is not sustainable in the eye of law. I do not find any reason to interfere with the order passed by the trial court. Hence, this Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

05.01.2024

msr
Index:yes/no
Internet:yes/no
speaking order/non-speaking order.

To

The District Munsif,
Tiruchengode.



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V. SIVAGNANAM, J.

msr

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