

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, TIRUPPUR

PRESENT: Thiru.Swarnam J. Natarajan M.L.,
Principal District Judge, Tiruppur

Wednesday, the 01st day of November, 2023

Thiruvalluvarandu 2054, Subakirudhu year, 15th day of Iypasi month

I.A.No. 11/2023

in

O.S.No.45/2021

1. Park Trust

Rep. By Managing Trustee

P.V.Ravi

2. P.V.Ravi

3. T.R.Karthik

... Petitioners/Plaintiffs

..Vs ..

1. K.Manoharan

2. R.Anusha

...Respondents/Defendants

This petition is coming up today i.e., 01.11.2023 for final hearing before me in the presence of Thiru.S.Barath, Advocate for the Petitioners and of Thiru.N.V.Giri, Advocate for the Respondents and upon perusing the petition, affidavit and counter and the case having stood over for consideration till this day, this Court delivers the following:

ORDER

This is the petition filed under Order XVI, Rule 1(3) r/w. 151 CPC to issue summons to the Income Tax Official Circle I, Tiruppur for production of the income tax returns for the assessment year 2015-16,

Dated : 01.11.2023

Principal District Court, Tiruppur

2016-17, 2017-18 with all enclosures specifically the balance sheet, Profit and Loss accounts, Assets and liability statements of the assessee namely Warrior Garments and also in respect of the assessee Mr.Manoharan whose income tax PAN number AJKPM7161M and also to the Sub- Registrar Palladam to depose about the guideline value in respect of the suit property touching upon the registration of sale deed Ex. A16 dated 28.12.2017 registered as document number 12351/2017.

2. The fact stated in the petition in brief is as follows:-

The suit has been filed by the petitioner trust seeking for the relief of cancellation of the sale deed and for the other reliefs. The 3rd Plaintiff was examined as PW1. The sale consideration pertaining to Ex. A16 have flown from one of the partnership firm by name M/S.Warrior Garments and not from the 1st Defendant therefore in order to seek the income tax returns along with all enclosures for the three preceding assessment years and succeeding years after the alleged sale was executed, the documents are required in order to prove the plaintiffs case. Unless plaintiff is permitted to summon the witness great prejudice and hardship would be caused to the plaintiff. On the other hand, if the petition is allowed no prejudice would be caused to the adverse party. Hence the present petition.

3. The facts stated in the counter by the 1st Respondent in brief is as follows:

Mr/s.Warrior Garments accounts are not relevant to the present transaction and the 1st defendant is running the Warrior clothing company in which he is a proprietor and all the transactions regarding the present sale deed is reflected in the IT returns of the 1st defendant. The income

tax returns for the assessment year 2015 to 2018 is not relevant for the present case and the relevant periods are 2018 to 2020. Purposefully irrelevant documents have been called for by plaintiff, which have no connection whatsoever with the present case therefore summoning the Income Tax Official is not required for this case and only to drag on the proceedings the present petition is filed. On the other hand the respondent is willing and ready to produce his income tax particulars during defendant's side evidence, which would give chance for the plaintiff to cross examine the witness. The TDS particulars relating to the sale deed would be reflected in form 26 in the account of the plaintiffs. Therefore, the income tax particulars, balance sheet, profit and loss, assets and liability statements of the plaintiffs would also enlighten the issue. Therefore the income tax particulars of the plaintiffs are also just and necessary for the present case, similarly the summoning of the SRO Palladam are not necessary. Hence the respondent prays for dismissal of the petition.

The points for determination are :-

Whether the plaintiffs witness cited in the application are irrelevant to be summoned for production of the documents called for?.

On the point:- Admittedly the suit is relating to cancellation of the sale deed executed in favour of the defendant claimed by the plaintiff to be executed towards loan transaction and the defendant fail to reconvey the property when the same was demanded. It was further contended by the plaintiff that the sale deed executed in favour of the defendant were never acted upon and the plaintiff continue to be in possession of the property till date. Therefore, in order to substantiate the case the plaintiff have now

taken out the present application to summon the Income Tax Officials in order to produce the income tax returns of M/s.Warrior Garments with respect to the income tax returns for the period 2015 to 2018 with the enclosures, balance sheet, accounts, assets and liability statements in order to verify whether the set sale transaction has been indicated in the income tax returns. The said application was opposed by the respondents stating that M/s.Warrior Garments have no connection whatsoever with this suit transactions and in fact the 1st defendant is running a proprietor concerned by name M/s.Warrior clothing company and they are ready to produce their income tax returns. To evidence the same the period relevant would be 2018 to 2020. Moreover the respondent also suggest that the income tax returns of the plaintiffs would be relevant to justify their case. The ultimate object of the trial is to find out truth. Therefore the documents suggested by the defendants if called for would throw light upon the matter and the allegations by the respondent that selective documents have been called for by the plaintiff to suit their convenience would also be justified. Therefore this court finds if appropriate to summon once and for all from the Income Tax Official all relevant documents necessary for the proper adjudication of the case. No prejudice would be caused to either side if all the documents are summoned.

Hence, this court finds that the petition filed by the petitioner is to be allowed and in addition to the particulars called for this court finds it appropriate to call for further particulars with respect to M/s.Warrior Clothing Company, for the period 2015 to 2020 and also the income tax returns of K.Manoharan, the 1st defendant for the period 2015 to 2020 and also the TDS particulars relating to the sale deed reflected in Form 26 AS

and the income tax return of the plaintiffs 2 and 3, 2nd defendant with respect to the sale transaction. Thereby the petition is allowed with the additional particulars ordered by the court to be produce by the income tax official. Hence ths point is answered accordingly.

In the result the petition is allowed. Issue summons to the Income Tax Official Circle I, Tiruppur for production of the income tax returns for the assessment year 2015 to 2020 together with all enclosures, balance sheets, Profit and Loss accounts, assets and liability statements of M/s.Warrior Garments, M/s.Warrior Clothing company, as well as the statement of Mr. K. Manoharan for the period 2015 to 2020 with all enclosures and also the TDS particulars of the plaintiffs 2 and 3, namely Mr. P. V. Ravi and Mr. Karthi as well as the 2nd defendant Mrs. Anusha with respect to the TDS particulars relating to the sale transaction sale deed Ex.A16, these particulars which are summoned from the Income Tax Official Circle 1 Tiruppur, to be produce on the hearing date and the Sub Registrar Palladam be summoned to produce the sale deed particulars Ex.A16 Document Number.12351 of 2017 dated 28.12.2017 of SRO Palladam as well as the guideline value for the suit property then and also the valuation done including the valuation report submitted by the District Revenue Officer Coimbatore. The plaintiff shall pay cost of Rs.5000/- for each witness on the date of their appearance considering the expenses and cost incurred for the witness to give evidence before the court. On such undertaking for payment of cost, issue summons to the witnesses.

Principal District Judge,
Tiruppur.

Dated : 01.11.2023

Principal District Court, Tiruppur.

Draft/Fair Order
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