



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 05.10.2015

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.P (MD) No.2020 of 2015

and

M.P (MD) No.1 of 2015

M.Mazood

.. Petitioner/Respondent/Plaintiff

-vs-

Parishal,

Rep. By Power of Attorney,

Sheik Abdul Hameed

.. Respondent/Petitioner/Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 12.08.2015 passed in I.A.No.2376 of 2014 in O.S.No.468 of 2014 on the file of the District Munsif Court, Tenkasi.

For Petitioner : Mr.D.Nallathambi

ORDER

As only a short point is involved, we shall dispose of the Civil Revision Petition today at the admission stage itself.

2. This is a plaintiff's revision.

3. The plaintiff filed the suit in O.S.No.468 of 2014 in the Court of the Principal District Munsif, Tenkasi. The plaintiff sued one Parishal. She appointed one Sheik Abdul Hameed as a power agent and the power deed was executed in Singapore and it was notarized before a Notary Public in Singapore and her said agent is to represent her in the suit and the power deed also has been filed. For this purpose, I.A.No.2376 of 2014 has been filed. This was opposed by the plaintiff.

4. The trial Court recognised the power and now the defendant is being represented by her said power agent.

5. Aggrieved, the plaintiff directed this revision.

6. According to the learned counsel for the revision petitioner, in the power deed, by way of an affidavit there was no averment that the power is in force. Further, an agent cannot depose as to facts personally known to others, however, such a power also has been given to the power agent. In this connection, the learned counsel for the revision petitioner would also cite *the Lakshmi Mills Company Limited, Rep. By its Managing Director Vs. R.Ramajaam and others* [2010 (1) MWN (Civil) 454].

<https://hcservices.ecourts.gov.in/hcservices/>

7. In civil cases, appearance through agents is permitted. It is



being regularized under Order 3, Rule 1 and 2 of C.P.C and Rule 16 of Civil Rules of Practice. Recognising of the power is a routine matter in civil Courts. The power may be general power or special power to do certain acts.

8. In this case, the defendant had endowed her power agent to do more than one act. To act on her behalf in the Court proceedings and she had also empowered him to depose on her behalf. Procedure is handmade of Justice, but it is not justice itself.

9. The trial Court has perused the affidavit of the power agent and also gone through the power deed, satisfied and permitted the power agent to represent her Principal(defendant). Empowering a person to depose or behalf of others is not impermissible in law. But under certain circumstances, the facts which are personally known to the principal, an agent cannot speak. Even then, none can shut his mouth. In such circumstances, it is open to the opposite party to oppose its admissibility and the trial Judge also has to decide its reliability. Of course, there is an omission of sentence in the affidavit that on the date, when the power is filed before the Court, it is in force. This can be rectified.

10. In the circumstances, while upholding the order of the trial Court passed in I.A.No.2376 of 2014 in O.S.No.468 of 2014, we direct the trial Court to direct the power agent, namely, Sheik Abdul Hameed to file an affidavit to the effect that as on today, the power given to him is in force. The trial Court will give him one week time to file the said affidavit.

11. Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Judge,
Tirunelveli.
2. The Principal District Munsif,
Tenkasi.

+ 1 CC TO MR.D.NALLATHAMBI, ADVOCATE IN SR NO. 58531

PS
TE/GSV-PM/ 16/10/2015 2P/4C

C.R.P (MD) No.2020 of 2015
and
M.P (MD) No.1 of 2015
05.10.2015