

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.10.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3129 of 2016 and
CMP.No.15887 of 2016

1. D.R.Venkatachalam
2. D.V.Mohanraj

...Petitioners

versus

1. R.Venkatachalapathy
2. R.Subramani

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 25.2.2016 passed in I.A.No.1020 of 2015 in O.S.No.25 of 2009 on the file of Subordinate court at Dharmapuri.

For Petitioners : Mr. V.B.Perumal Raj

ORDER

The respondents instituted a suit in O.S.No.25 of 2009 before the Subordinate Court, Dharmapuri, praying for a money decree. The suit was contested by the defendants by filing written statement.

2. The trial court permitted the second respondent to conduct the proceedings on behalf of the first respondent. The second respondent tendered evidence on behalf of the first respondent, pursuant to the

permission granted by the trial court. Thereafter, the petitioners filed an application in I.A.No.1020 of 2015 to reject the chief affidavit of the power agent. The application was dismissed by the trial court. The said order is under challenge in this Civil Revision Petition.

3. Learned counsel for the petitioners contended that the power of attorney was given by the first respondent to the second respondent in respect of a different property. It has nothing to do with the plaint schedule property. As such, the trial court was not correct in permitting the second respondent to give evidence.

4. The factual matrix indicates that the trial court permitted the second respondent to represent the first respondent in O.S.No.25 of 2009. The second respondent pursuant to the permission granted by the trial court filed his chief affidavit. P.W.1 was cross-examined by the petitioners. It was only thereafter they have filed the application in I.A.No.1020 of 2015.

5. The evidentiary value of the evidence given by P.W.1 is a matter of appreciation by the trial court. There is no question of eschewing the evidence given by the second respondent only on the ground that the power of attorney was in relation to a different

property. The trial court would consider the evidentiary value of the evidence given by the power agent, after conclusion of trial. I am therefore of the view that there is no case made out by the petitioners for interference in the order passed in I.A.No.1020 of 2015.

6. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

25.10.2016

Index:Yes/No
ajr

To

The Subordinate Court, Dharmapuri

K.K.SASIDHARAN, J.

ajr

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