



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2016

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CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.2457 of 2015 (PD)

and

C.M.P. (MD) .No.1 of 2015

Lakshmi Ammal

.. Petitioner/1st Respondent/
1st Defendant

Vs.

Armuga Nadar

..1st Respondent/Petitioner/
Plaintiff

Radhakrishnan

.. 2nd Respondent/2nd Respondent/
2nd Defendant

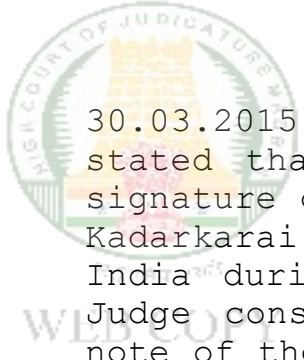
Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order, dated 09.09.2015 passed in I.A.No.862 of 2015 in O.S.No.280 of 2015 on the file of the Learned Principal District Munsif, Tenkasi.

For Petitioner : Mr.V.Sasikumar

ORDER

This memorandum of Civil Revision Petition has been directed against the fair and decretal order, dated 09.09.2015 passed in I.A.No.862 of 2015 in O.S.No.280 of 2015 on the file of the Learned Principal District Munsif, Tenkasi.

2. The petitioner is the first defendant. The first respondent is the plaintiff. The second respondent is the second defendant in the suit. The first respondent filed a suit in O.S.No.280 of 2015, for declaration and permanent injunction. The first respondent also filed an application in I.A.No.862 of 2015 for permission to file and conduct the suit through the power agent of the plaintiff Armuga Nadar. According to the power agent, said Armuga Nadar appointed him as power agent by the deed dated



30.03.2015. The first defendant has filed counter affidavit and stated that the signature in the power of attorney is not the signature of Arumuga Nadar and it is forged by alleged power agent Kadarkarai and denied the fact that said Arumuga Nadar came to India during the period and stayed for six months. The learned Judge considering the facts and materials on record and taking note of the fact that the power of attorney was attested by notary public, allowed the application on 09.09.2015. Against that order the present Civil Revision Petition has been filed.

3. The learned counsel for the petitioner submitted that the learned Judge failed to see that said Arumuga Nadar did not come to India during March, 2015 and did not sign the power of attorney. The said power of attorney is a forged one, created by alleged power agent Kadarkarai. The learned Judge failed to consider that said Arumuga Nadar is a Malaysian Citizen and power of attorney is not a registered one and since the said Arumuga Nadar is a Malaysian Citizen, he can not execute the Power of Attorney without any authorization from the Council General of Malaysian Embassy. The learned counsel for the petitioner also submitted that as per Rule 16 of the Civil Rules of Practice, the first respondent has to get permission before filing of the suit.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. From the records, it is seen that the power of attorney dated 30.03.2015, produced in this case, is attested by notary public. In the circumstances, it is for the petitioner to prove by acceptable evidence, that signature is a forged one. The petitioner has opportunity at the time of trial, as to the correctness and genuineness of the power of attorney and prove by evidence that the signature of the Arumugam Nadar is a forged one. At this stage, the same cannot be decided. In the circumstances, the learned Judge has rightly ordered. There is no irregularity or illegality in the said order, warranting interference by this Court.

6. Accordingly this Civil Revision Petition is dismissed. No Costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar



To
The Principal District Munsif, Tenkasi.

+1cc to Mr.V.Sasikumar, Advocate, Sr.No.15786

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JM/AAL-MPA/26.04.2016/3P-3C

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