

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2366 of 2015 &
M.P.No.1 of 2015

1.D.Selvaraj
2.P.Sekar
3.P.Karpagam

.. Petitioners

Vs.

1.N.Vanaja
2.K.Murugesha Naickar
3.Ilampuzhal Selvam
4.M.Shankar
5.M.Bhaskaran
6.M.Dharman
7.K.Ramachandran
8.K.Parthiban
9.Suguna
10.Sathish Kumar
11.Anand Babu
12.T.Venugopal

.. Respondents

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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Decreetal order dated 30.04.2015 made in I.A.No.105 of 2015 in O.S.No.92 of 2007 on the of the III Additional District Court, Thiruvallore at Poonamallee.

For Petitioners : Mr.V.Sitharanjandas

For Respondents : Mr.S.Natanarajan for R1

Mr.K.V.Ananthakrishnan
for R2, R4 to R6

R3 & R7 to R12 - Given up

* * *

ORDER

The Civil Revision Petition has been filed against the fair and decreetal order dated 30.04.2015 made in I.A.No.105 of 2015 in O.S.No.92 of 2007 on the of the III Additional District Court, Thiruvallore at Poonamallee.

2. The petitioners are the defendants 6 to 8, the first respondent is the plaintiff, respondents 2 to 6 are the defendants 1 to 5 and the respondents 7 to 12 are the defendants 9 to 14 in O.S.No.92 of 2007. The first respondent filed an application in I.A.No.105 of 2015 under Order III Rule 2 read with 151 C.P.C. for permission to proceed the suit and to conduct the suit as per the Power of Attorney of the first respondent, dated 30.01.2015 registered on the Sub Registrar Office, Joint-II Sub Registrar, Saidapet.

3. According to the first respondent, originally a Power of Attorney,

dated 02.03.2007 was executed by appointing her husband as her Power Agent. The Power Agent/first respondent filed I.A.No.182 of 2007, for grant of permission to file the Suit through power agent. The said application was allowed and permission was granted. The suit filed by the first respondent was numbered and the respondents filed written statement. Subsequently, certain mistakes were found out in the said Power of Attorney. In view of the same, the present Power of Attorney, dated 30.01.2015 has been executed, ratifying the mistakes in the earlier Power of Attorney, dated 02.03.2007 ratified all the acts done as per the earlier power of attorney and present Power of Attorney was registered in Sub Registrar Office, Saidapet.

4. The petitioners filed counter and opposed the said application on the ground that by the present Power of Attorney the earlier illegal Acts cannot be ratified.

5. The learned Judge considering the averments made in the affidavit, counter affidavit and the judgement of this Court reported in **2011 (1) CTC 286 [K.Santhanam Vs. S.Kavitha through her sub power agent K.Seerappan through her Power Agents]**, allowed the said application.

6. Against the order dated 30.04.2015 made in I.A.No.105 of 2015 in O.S.No.92 of 2007, the present Civil Revision Petition is filed by the petitioners.

7. The learned counsel for the petitioners submitted that the learned Judge failed to consider the various objections of the petitioners in the counter filed by them and proceeded and passed the order, as though, petitioners have not filed any counter. The learned Judge failed to appreciate the facts that the third party interest is involved and illegal act done by the Power Agent cannot be ratified and the learned Judge erred in relying on Section 199 of Indian Stamps Act, but failed to appreciate Section 200 of Indian Contract Act properly. The first respondent cannot execute another power of attorney without permission of the Court. The said Power of Attorney is non est in law.

8. In support of his contentions, the learned counsel appearing for the petitioners relied on following Judgements:

- (i) AIR 1941 Madras 6 (Thinnappa Chettiar Vs. Krishna Rao)**
- (ii) 2007 (5) MLJ 1381(Habibunnisa Beevi Vs.Perumal)**
- (iii) AIR 1932 Lahore 388 (Notified Area Committee Vs. Kidar Nath)**

**(iv) AIR 1936 Lahore 321 (Punjab Zamindars Bank
Vs. Madan Mohan)**

(v) 2007 (4) CTC 144

(Parthi Balaiah Chetty Vs. Prema Sudhamani)

**(vi) AIR 1984 Delhi 363 (M/s.E.C. and E.Co. Ltd.,
Vs. M/s. J.E. Works, Sirsa)**

(vii) 2013 (6) CTC 227 (Omprakash Vs. Lazminarayan)

(viii) 2013 (2) CTC 832 (D.Balachandran Vs. T.C.Shanmugam)

9. The learned counsel appearing for the first respondent contended that the principal can ratify all the earlier acts done by the Power Agent by a subsequent Power Deed. In view of the same, learned Judge has properly appreciated the facts and allowed the application.

10. In support of his contentions, the learned counsel for the first respondent relied on following Judgement:-

**2011 (1) CTC 286 (K.Santhanam Vs. S.Kavitha through her sub
power agent K.Seerappan through her Power Agents).**

11. Heard the learned counsel for the petitioners and respondents and perused the materials available on record.

12. I have dealt with the contentions of the petitioners with regard to irregularity in granting permission in filing of the suit based on the earlier Power of Attorney in C.R.P.No.2365 of 2015. As far as the present Civil Revision Petition is concerned, the question to be decided is whether permission granted by the learned Judge to the Power Agent of the first respondent to conduct the case based on the present Power of Attorney, dated 30.01.2015 is valid or not. The petitioners took objection to the validity of earlier Power of Attorney on the ground that the Power Agent did not follow the procedure contemplated under Section 18 of Indian Stamps Act and Power of Attorney is inadmissible. Now, the first respondent has executed the present Power of Attorney, appointing her husband as Power Agent. The said Power of Attorney has been registered in the Sub Registrar Office, Saidapet. The first respondent also ratified all the acts done by her agent based on the earlier Power of Attorney, dated 02.03.2007.

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13. The contention of the learned counsel for the petitioners that the illegal act of agent cannot be ratified is without merits. The agent has acted

as per the earlier Power of Attorney and it cannot be said that the acts of the agent is illegal. In the present Power of Attorney, the first respondent ratified all the acts done by the Agent earlier. Whether principal can ratify all the acts done by the agent as per the earlier Power of Attorney was considered by this Court in the judgement reported in **2011 (1) CTC 286 [K.Santhanam Vs. S.Kavitha through her sub power agent K.Seerappan through her Power Agents]**, relied on by the learned counsel for the first respondent and held that the principal can ratify the earlier act done by the Power Agent, by subsequent Power of Attorney. The said judgement squarely applies to the facts of the present case.

14. In these circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 30.04.2015.

15. In the result, this Civil Revision Petition is dismissed. The learned III Additional District Judge, Thiruvallore, is directed to dispose O.S.No.92 of 2007 and O.S.No.94 of 2011, on merits and in accordance with law, as expeditiously as possible, in any event, not later than four months from the date of receipt of a copy of this order. No costs. Consequently, connected

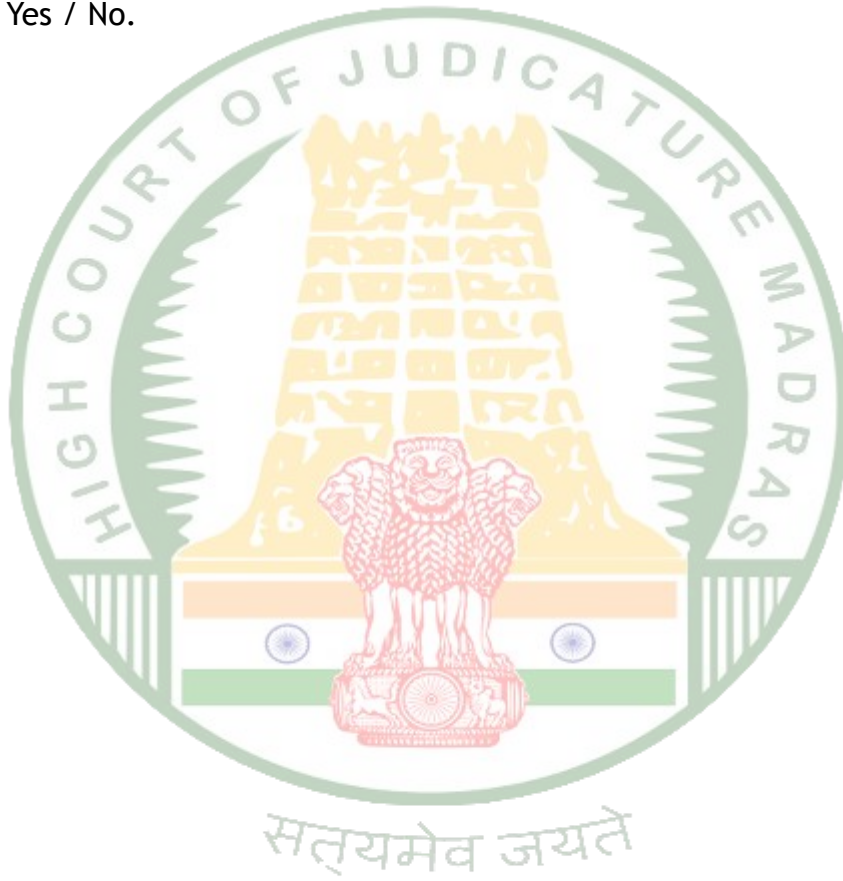
miscellaneous petition is closed.

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Index : Yes / No.

Internet : Yes / No.

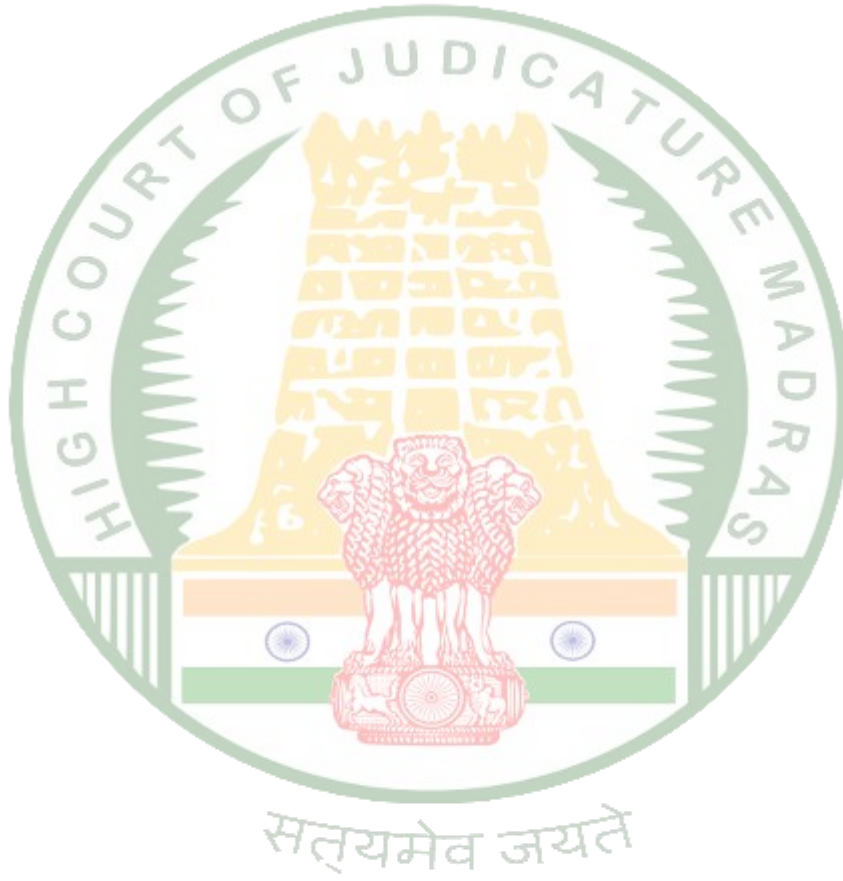
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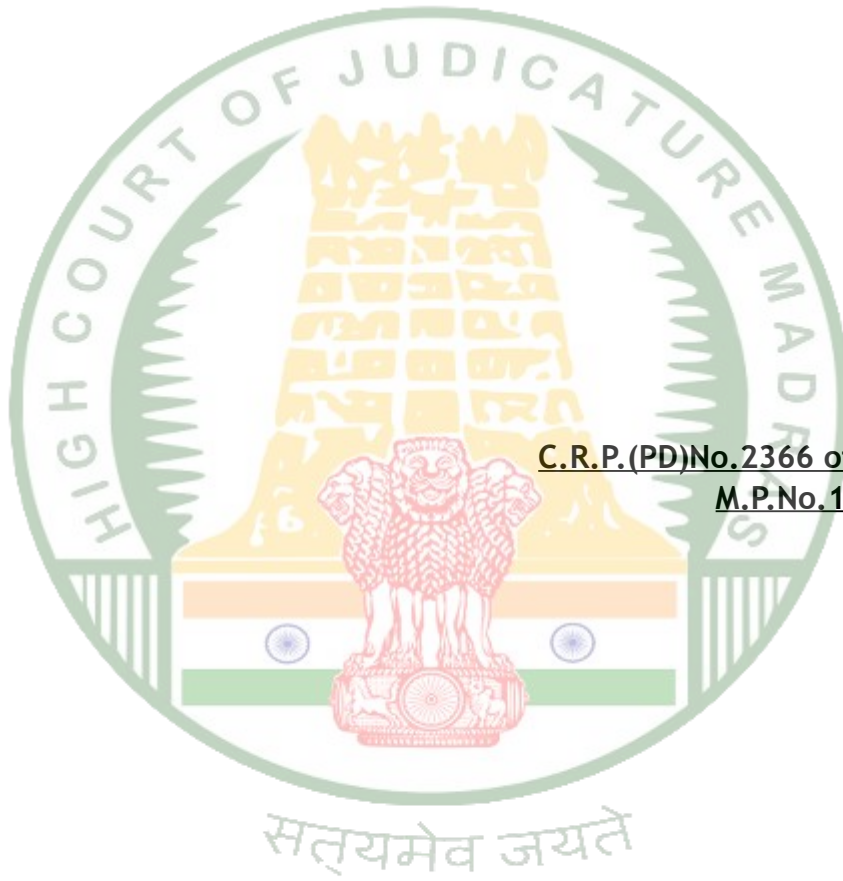
The III Additional District Court,
Thiruvallore at Poonamallee.



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V.M.VELUMANI, J.

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