

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.6416 of 2017

Order:

Aggrieved by an order passed by the Trial Court, allowing the defendants 1 and 2 to be represented by a General Power of Attorney Holder, the plaintiff in the suit has come up with the above revision.

2. Heard Mr. Venkatewara Rao Gudapati, learned counsel for the petitioner.

3. The petitioner filed a suit for permanent injunction against four persons, who are the respondents herein. In the said suit, the defendants 1 and 2 filed an application in I.A.No.623 of 2017 under Order III, Rule 2 CPC read with Rule 34 of the Civil Rules of Practice, to permit them to appear through Power Agent. The application was accompanied by the General Power of Attorney executed in the State of Karnataka.

4. The petitioner/plaintiff objected to the said application on the ground that the General Power of Attorney authorised the Power Agent to deal with the immoveable properties and that therefore the same required appropriate stamping and registration in the State of Andhra Pradesh. But the Trial Court overruled the objection and allowed the application forcing the plaintiff to come up with the above revision.

5. At the outset, it should be pointed out that the General Power of Attorney relied upon by the defendants 1 and 2, was executed at Karnataka. It was also registered in the office of the Sub-Registrar of Ganga Nagar, Karnataka. The recitals contained in the Deed of General Power of Attorney show that it was a general power, where all and sundry find a place. Though it also contains a clause for sale and purchase of properties, there is no schedule attached to the Deed of General Power of Attorney. In other words, no power is conferred specifically with respect to any immoveable property, so as to deal with the contention now raised.

6. If a Power of Attorney is executed in one State and also registered, there is nothing that prevents one of the parties to a suit merely seeking to rely upon the same for defending a proceeding in another State.

7. The next contention of the learned counsel for the petitioner is that an Affidavit did not accompany, the application, as required by Rule 32 of Civil Rules of Practice, to the effect that the power is in existence. From the papers before me, it is not known whether such an Affidavit was filed or not. In any case, it is a curable defect. That it is a curable defect has already been decided at least by one Division Bench of the Bombay High Court in **All India Reporter Ltd. v. Ramchandra**¹, which was followed by the Madurai Bench

¹ AIR 1961 Bombay 292

of the Madras High Court in **Mr. K.Santhanam v. Mr. P.Chinniah** [CRP (PD)(MD) No.745/2010, dated 02-12-2010].

8. Therefore, the Trial Court was right in allowing the application. I find no reason to interfere with the said order. Hence, the civil revision petition is dismissed. The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

24th November, 2017.
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V.RAMASUBRAMANIAN, J.



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