

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2018

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) NO.3309 OF 2017

Ramakrishnan

... Petitioner

Vs.

1.Vivekananthan

2.Shanthi

3.Umamaheswari

4.Govindarajan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the impugned order dated 10.04.2017 passed in plaintiff's memo dated 10.04.2017 in O.S.No.48 of 2016 on the file of II Additional District Court, Chidambaram.

For Petitioner : Mr.P.R.Thiruneelakandan

ORDER

This Civil Revision Petition is directed against the order dated 10.04.2017 passed on the memo filed by the petitioner / plaintiff.

2. The fourth respondent / fourth defendant filed an application under Order 3 Rules 1 and 2 of the Code of Civil Procedure to

permit him to conduct the case on behalf of the defendants as their power agent. The said petition was opposed by the petitioner. However, it was allowed by an order dated 08.12.2016. Pursuant to the order passed under Order 3 Rules 1 and 2 CPC, consequential amendment was directed to be carried out by the petitioner / plaintiff. Against such direction to carry out the amendment, the present Civil Revision Petition is filed.

3. As long as the power of attorney issued by the defendants 1 to 3 is in force, the fourth defendant is recognised as power of attorney to conduct the case and the recognition shall be recorded and consequently, the short title of the plaint has to be amended. The contention of the petitioner / plaintiff that it need not be recorded is not sustainable.

4. Order 3 Rule 2(a) of the Code of Civil Procedure reads as follows:

"2. Recognized agents. - The recognized agents of parties by whom such appearances, applications and acts may be made or done are -

(a) persons holding powers-of-attorney, authorizing them to make and do such appearances, applications and acts on behalf of such parties;"

A reading of the above provision specifies that recognised agents of parties holding powers of attorney, authorising them to make and do such

appearances, acts etc., on behalf of such parties when a power of attorney authorised to act on behalf of the party shall expressly be shown that he is acting in that capacity. Hence, the power of attorney engaged by the defendants to defend the suit should also be indicated in the short cause title. The contention of the petitioner that Order 3 Rules 1 and 2 CPC does not contemplate such a situation, is not sustainable and the consequential amendment shall be carried out in the plaint. In the considered opinion of this Court, the order passed by the learned Trial Judge in the memo filed by the plaintiff is very much legal and sustainable.

5. Accordingly, the Civil Revision Petition is dismissed. No costs.

23.03.2018

Index : Yes/No

Internet : Yes/No

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M.GOVINDARAJ, J.

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To

The II Additional District Court
Chidambaram.



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