



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.08.2018
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

C.R.P.(MD).No.141 of 2016 and
C.M.P.(MD)No.660 of 2016

Prof.H.S.Donald,
S/o.V.Hendry,
Rep. by his Power Agent,
Dr.D.Hendry Raja

... Petitioner/Petitioner/
Plaintiff

Vs.

1. M/s.Hindustan Petroleum Corporation Ltd.,
Rep. by its Senior Regional Manager,
No.7, 3rd Floor, Rakesh Towers,
Bypass Road,
Madurai - 625 010.

2. S.Kumar

... Respondents/Respondents/
Defendants

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 20.02.2015 passed in I.A.No.50 of 2015 in O.S.No.116 of 2013 on the file of the learned Principal Subordinate Judge, Nagercoil, by allowing this Civil Revision petition and to grant such other reliefs that this Court may deem fit and proper in the circumstances of the case.

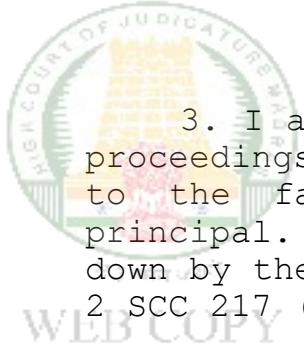
For Petitioner : M/s.P.Jessi Jeevapriya,
for Mr.G.Aravindan.

For R-1 : Mr.M.Sridhar

For R-2 : No appearance.

ORDER

The plaintiff in O.S.No.116 of 2013 on the file of the Principal Subordinate Court, Nagercoil, is the Revision petitioner herein. Subsequent to the institution of the suit, the plaintiff gave power in favour of his son. Thereafter, the son filed the present I.A.No.50 of 2015 for recognising the said Power of Attorney for the purpose of conducting the suit proceedings. The trial Court by order dated 20.02.2015 dismissed the said application. Questioning the same, the Civil Revision petition has been filed.



3. I am of the view that the son can very well conduct the suit proceedings on behalf of his father. But then, he cannot depose as to the facts that are within the personal knowledge of the principal. This aspect of the matter has been authoritatively laid down by the Hon'ble Supreme Court in the decision reported in (2005) 2 SCC 217 (Janki Vashdeo Bhojwani V. Indusind Bank Ltd.,).

4. Therefore, the order passed by the learned Principal Subordinate Judge, Nagercoil, in I.A.No.50 of 2015 in O.S.No.116 of 2013, dated 20.02.2015, stands set aside and the Civil Revision petition stands allowed, subject to the restriction that the Power Agent cannot depose for the principal in respect of the matters about which the principal alone can have personal knowledge and in respect of which the principal can alone be cross examined. Since the plaintiff is aged 91 years, the proceedings will have to be fast tracked. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Principal Subordinate Judge,
Nagercoil.

Copy To:

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**

+1CC to M/s.P.Jessi Jeevapriya, Advocate, SR.No. 81709

+1CC to Mr.M.Sridhar, Advocate, SR.No.81823

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PMU

ES/SKN/RSK/SAR 4/25.10.2018/2P/6C