



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (PD) (MD) No.1637 of 2012

and M.P. (MD) No.1 of 2012

WEB COPY

C.Thangarasu

...Petitioner/1st Respondent/
1st Respondent/Plaintiff

vs.

1.G.Subramanian

..1st Respondent/2nd Respondent/
2nd Respondent/1st Defendant

2.M.Saravanan

3.M.Senthil Kumar

...Respondents 2 & 3/ Petitioners/
Petitioners/3rd Parties

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 10.04.2012 made in I.A.No.178 of 2011 in I.A.No.126 of 2009 in O.S.No.94 of 2009 on the file of the Additional Subordinate Judge, Kumbakonam.

For Petitioner : No appearance

For Respondents : No appearance

ORDER

In this case, the learned counsel on record for the petitioner has passed away and court notice has been sent to the petitioner and his name is printed in the cause list.

2.The revision petitioner herein is the plaintiff in O.S.No.94 of 2009 on the file of the Additional Sub Court, Kumbakonam. The suit is laid for recovery of money advanced on a promissory note. The defendant is one Subramanian, who is arrayed as the first respondent in this revision. The third parties namely, Saravanan and Senthilkumar wanted to interfere alleging that the defendant had already sold the suit property to them and that the plaintiff and the defendant have colluded with the view to affect their title to the property sought to be attached.

3. It appears that the third parties, namely, Saravanan and Senthilkumar had filed a petition in I.A. No.126 of 2009 to implead themselves as parties and to receive a power of attorney of Saravanan to represent his brother Senthilkumar. This was opposed to by the plaintiff in I.A.No.178 of 2011 in I.A.No.126 of 2009 in O.S.No.94 of 2009 Vide order dated 10.04.2012, that was rejected by the trial court and it allowed the I.A.No.178 of 2011. Against which, the present revision has been filed.



4.Since the petitioner is not present before this Court, this Court is constrained to read the papers, more so, the present Civil Revision Petition is pending since 2012 and the suit itself is pending before the trial court since 2009.

5.Order 3 C.P.C provides that a party can either appear in person or through Advocate or through his power of attorney. For jurisprudential terms, it is not a mere procedural right granted to a party but also it is more in the nature of a power granted by the procedure to a party as to how he chooses to appear before the Court.

6.This Court does not find that the learned trial Judge has improperly allowed the prayer of the third party to represent his brother as his power of attorney.

7.In fine, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (ADI)

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/ /2020

Sub Assistant Registrar(CS)

CM/msa

To

1. The Additional Subordinate Judge, Kumbakonam.

2.The Section Officer (2Copies)

V.R.Section, Madurai Bench of Madras High Court,
Madurai

C.R.P. (PD) (MD)No.1637 of 2012

and

M.P. (MD)No.1 of 2012

02.09.2020

MA (CO)

KB(24.09.2020) 2P 3C