

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(P.D).No.3816 of 2015

A.Gunasekaran

...Petitioner

Vs

1.Sundaram

2.V.S.Vijay

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order dated 23.12.2014 made in I.A.No.21 of 2014 in O.S.No.72 of 2013 on the file of the IV Additional District Court, Erode District at Bhavani.

For Petitioner : Mr.T.Murugamanickam
Senior Counsel for
Ms.Zeenath Begum

For Respondents : Mr.K.Govi Ganesan

ORDER

This Civil Revision Petition is directed as against the fair and final order dated 23.12.2014 made in I.A.No.21 of 2014 in O.S.No.72 of 2013 on the file of the IV Additional District Court, Erode District at Bhavani, thereby dismissed the I.A.No.21 of 2014 filed by the petitioner herein, seeking permission to proceed with the suit on behalf of the 4th and 5th defendants as power agent.

2.Mr.T.Murugamanickam, the learned Senior Counsel, submitted that the power of attorney deeds have been duly attested at New Zealand and subsequently adjudicated before the Joint Registrar No.1, Erode and got registered. Thereafter, it was filed before various authorities and the copies of the same were duly notarized and produced before the trial Court and he seeks permission to appear on behalf of the 4th and 5th defendants, through the petitioner. Without considering the above fact, the trial Court dismissed the petition only on the ground that the original power of attorney deeds were not produced.

3.Per contra, the learned counsel for the respondents would submit that admittedly, the petitioner failed to produce the original power of

attorney deeds executed in favour of him by the 4th and 5th defendants, before the trial Court. That apart, the 4th and 5th defendants are residing at Erode, and as such both the power deeds, which was marked as Ex.P.1 and Ex.P.2 cannot be considered and the trial Court has rightly dismissed the petition in I.A.No.21 of 2014 in O.S.No.72 of 2013 by order dated 23.12.2014.

4.The respondents filed the suit for declaration, partition, separate possession, damages and also for other reliefs, in which the petitioner herein is the 2nd defendant. The defendants 4 and 5 are Son and Daughter-in-law of the petitioner herein. Both the defendants 4 and 5 are residing in New Zealand. Therefore, they have executed general power of attorney deeds dated 05.02.2011 and 06.06.2011, separately in favour of the petitioner herein, in order to enable the petitioner to appear on behalf of the defendants 4 and 5, in the suit, as power agent. On the strength of the power of attorney deeds executed by the 4th and 5th defendants in the suit, the petitioner herein filed the petition in I.A.No.21 of 2014 in O.S.No.72 of 2013 on the file of the IV Additional District Judge, Erode District at Bhavani, seeking permission to represent on behalf of the 4th and 5th

defendants in the suit. The learned Senior Counsel would submit that both the power of attorney deeds have been duly attested at New Zealand, adjudicated by registration before the Joint Registrar No.1, Erode, and notarized at Erode. Thereafter, both the documents were filed before various revenue officials and only notarized copies of those documents were produced before the trial Court. Therefore, the trial Court has rightly dismissed the petition filed by the petitioner herein on the ground that the petitioner failed to produce original power of attorney deeds. Therefore, this Court finds no infirmity or irregularity in the order passed by the Court below. However, the learned Senior Counsel submitted that the petitioner may be permitted to produce the certified copies of the power of attorney deeds before the trial Court and contest the suit on behalf of the 4th and 5th defendants.

5.Considering the above submissions, the petitioner is at liberty to produce the certified copies of the power of attorney deeds executed in his favour by the 4th and 5th defendants before the trial Court. With the above direction, the Civil Revision Petition is dismissed by confirming the order of the trial Court made in I.A.No.21 of 2014 in O.S.No.72 of 2013 by order

dated 23.12.2014. No order as to costs.

05.01.2021

Index: Yes/No

Speaking Order: Yes/No

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To

The IV Additional District Judge, Erode District at Bhavani.

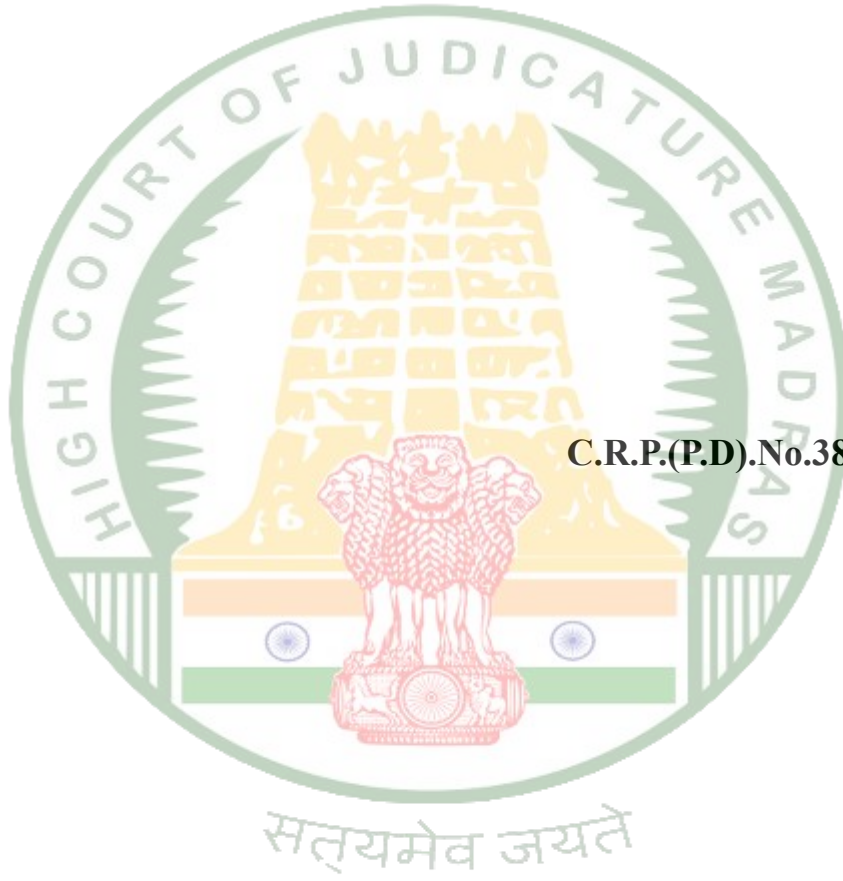


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