



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2022

CORAM:

WEB COPY

THE HONOURABLE MRS. JUSTICE S.ANANTHI

C.R.P (MD) .No.773 of 2022

V.Venkatasamy ...Petitioner/Claim Petitioner

Vs.

1.Lakshmanaperumal ...1st Respondent/Plaintiff

2.Pannerselvam ...2nd Respondents/Defendant

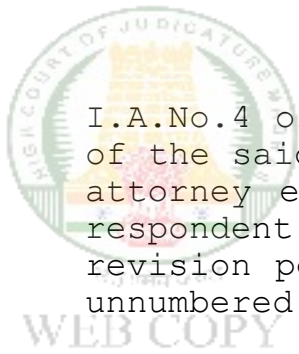
PRAYER : This Civil Revision Petition is filed under Section 227 of the Constitution of India, to set aside the docket order dated 07.01.2022 passed by the learned Principal District Court, Theni in unnumbered Claim Petition No. of 2021 in I.A.No.4 of 2021 in O.S.No.33 of 2018 and further for a direction to direct the learned Principal District Judge, Theni to number the claim application and proceed the same on merits for adjudication.

For Petitioner : Mr.S.Rajasekar

O R D E R

This Civil Revision Petition has been filed to set aside the docket order dated 07.01.2022 passed by the learned Principal District Court, Theni in unnumbered Claim Petition No. of 2021 in I.A.No.4 of 2021 in O.S.No.33 of 2018 and direct the learned Principal District Judge, Theni to number the claim application.

2.The learned counsel for the petitioner submitted that the revision petitioner and the first respondent are brothers. The revision petitioner executed a power of attorney dated 31.03.2015 in favour of the first respondent. The second respondent entered into a sale agreement dated 11.04.2015 to sell his property to the first respondent as a power agent to the revision petitioner for a sale consideration of Rs.43,25,000/- and an advance amount of Rs.21,35,000/- was received and the first respondent agreed to pay the balance sum of Rs.21,35,500/-. Since the first respondent failed to pay the balance amount, the second respondent filed O.S.No.33 of 2018 before the Additional District Court, Theni, for recovery of money and the same was partly decreed. The second respondent was directed to pay a sum of Rs.14,50,000/- with interest at the rate of 6% per annum to the first respondent. The first respondent filed



I.A.No.4 of 2021 for refund of the said amount. During the pendency of the said petition, the revision petitioner cancelled the power of attorney executed in favour of the first petitioner. Since first respondent is not the power agent to the revision petitioner, the revision petitioner is entitled to the said amount. Hence, he filed unnumbered claim petition.

3.Heard the learned counsel for the petitioner. Considering the nature of relief to be granted, issuance notice to the respondents is dispensed with.

4.On a perusal of the records, it is seen that I.A.No.4 of 2021 was filed for refund of the suit award amount. The revision petitioner is a third party. He filed a claim petition under Order 21 Rule 58 r/w Section 151 of Civil Procedure Code to claim the suit award amount as if the power of attorney executed in favour of the first respondent was cancelled and the revision petitioner is entitled to the said amount. The said petition was returned by the Court below. Since factual facts are involved in this case, the learned Principal District, Theni, is directed to number the claim petition and decide the same after giving an opportunity of hearing to the petitioner to purforth his case, if it is otherwise in order.

5.With the above direction, this Civil Revision Petition is allowed. No costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ias

To

The Principal District Judge,
Theni.

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-17076[F] dated 07/04/2022)

C.R.P (MD) .No.773 of 2022
06.04.2022

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