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C.R.P.(PD).No.1219 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1219 of 2024
and C.M.P.No.6387 of 2024

L.PURUSHOTHAMAN

... Petitioner

VS

J.MEGANATH

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the impugned docket order dated 11.12.2023 made in M.P.SR.No.45888 of 2023 in R.C.O.P.No.35 of 2018, on the file of XI-Small Causes Court, Chennai in rejecting the petitioner in unnumbered stage and direct the court below to take on file and pass orders thereon within a time frame.

For Petitioner : Mr.R.Veeramani

For Respondent : Ms.Rajnish Pathiyil

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dated 11.12.2023 rejecting the petition filed by the revision



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petitioner in M.P.SR.45888 of 2023 seeking a direction to the respondent to produce the passport copy of the petitioner relevant to the period from 01.01.2017 to 31.12.2017 and the original rental agreement executed between the parties.

2. The said petition was rejected by the Trial Court on the ground that petitioner already unsuccessfully challenged the validity of the Power of Attorney and hence, the present petition filed by him is not maintainable. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that Power of Attorney produced by the Power Agent of the respondent was dated 13.11.2017 and at the relevant point of time, the Respondent (Principal) was in United States of America and therefore, the Power of Attorney produced by the respondent should be a concocted document. In order to prove the said fact, the present petition has been filed by the petitioner seeking direction to the respondent to produce passport copy.



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4. Ms.Rajnish Pathiyil, learned counsel who takes notice for respondent, produced typed-set of papers containing the copy of the passport issued to the respondent, flight tickets and order passed in C.R.P.No.3523 of 2023, dated 26.09.2023. The learned counsel submitted that as per the endorsement in the passport, the respondent arrived at India on 30th October, 2017 and as per the flight ticket, he departed on 19th November. However, the seal in the passport regarding the departure is not available.

5. The learned counsel for the respondent only produced the flight tickets to establish that the respondent departed from India on 19th November. The relevant pages of passport containing the departure seal is not produced in the typed set of papers.

6. The impugned docket order has been passed by the Trial Court at the numbering stage, even without notice to the respondent. In view of the serious allegation made by the petitioner in the affidavit filed in support of the application that at the time of relevant point of time, the Respondent (Principal) was not available in India and therefore, the Power of Attorney



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dated 13.11.2017 is a concocted one, this Court feels that the Trial Court should number the application and after giving sufficient opportunity to both the parties, dispose of the same in accordance with law. Therefore, the impugned order passed by the Trial Court is set aside.

7. The learned counsel appearing for the respondent submitted that the main R.C.O.P.No.35 of 2018 is posted for argument on 02.04.2024. In view of the timing of the application filed by the petitioner, this Court is inclined to direct the Court below to dispose of M.P.SR.No.45888 of 2023 in accordance with law, as expeditiously as possible within a period of three weeks from the date of receipt of copy of this order.

8. With the above direction, the Civil Revision Petition stands allowed. No costs. Consequently, the connected civil miscellaneous petition is closed.

28.03.2024

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

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Note: Issue order copy on 05.04.2024.

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The XI-Small Causes Court,
Chennai.



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S.SOUNTHAR, J.

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