



CRP.No.2779 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.2779 of 2021
and
CMP.No.20195 of 2021

M.J.Srinivasan
Rep.through its power of attorney
J.Radhakrishnan
No.73, North Thottam
Maniakaran Palayam, Idigarai Post
Coimbatore 641 022.

... Petitioner

Vs.

1.G.Padmanaban
2.Sujitha
3.M.Soundararajan
4.S.Vellaiammal

5.The Executive Officer
Idigarai Town Panchayat
Coimbatore 641 022.

...Respondents



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Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair order and decretal order dated 09.08.2021 passed in IA.No.1 of 2019 in OS.No.586 of 2012 on the file of the II Additional Subordinate Judge, Coimbatore.

For Petitioner : Mr.K.M.Ramesh
Senior Counsel
for Mr.V.Subramani

For Respondents : Mr.V.Venkatasamy for R1
Mr.V.Jeevagiridharan for R5
Additional Government Pleader
R2 to R3 – No appearance

ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the petitioner/plaintiff to recognize his power agent.

2. The petitioner herein filed a suit seeking declaration that gift deed dated 10.05.2005 executed by the respondents 1, 2 and 5 are void documents and for other consequential relief. The instant application has been filed to recognize one Radhakrishnan as power agent of the petitioner/plaintiff



Srinivasan. In the affidavit filed in support of this application, it is stated that said Srinivasan executed a power of attorney in favour of Radhkrishnan for conducting the case on his behalf as he was not in a position to attend the Court proceedings. The said application was not contested by the respondents by filing counter. However, the said application was dismissed by the Court below on the ground that the petitioner herein is not entitled to appear on behalf of his principal Srinivasan.

3. Order III Rule 1 & 2 of the Code of Civil Procedure, reads as follows:

1. Appearances, etc., may be in person, by recognized agent or by pleader—

Any appearance, application or act in or to any Court, required or authorized by law to be made or done by a party in such Court, may, except where otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by a pleader appearing, applying or acting, as the case may be, on his behalf:

Provided that any such appearance shall, if the Court so directs, be made by the party in person.

2. Recognized agent:-

The recognized agent of parties by whom such appearances, applications and acts may be made or done are—



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- (a) persons holding powers-of-attorney, authorizing them to make and do such appearances, applications and acts on behalf of such parties;
- (b) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts.

4. A reading of the above Rules would make it clear that parties to the litigation is entitled be represented by his/her recognised agent. The recognized agent of the party means a person holding power of attorney authorizing him to act on behalf of his principal.

5. The petitioner herein produced the general power of attorney dated 23.07.2014 executed by Srinivasan in favour of Radhakrishnan. A perusal of the same would suggest that the original plaintiff in the suit Srinivasan executed general power of attorney in favour of Radhakrishnan for conducting the Court cases in respect of the properties mentioned in the schedule to the power deed. The present suit is filed in respect of the property in S.No.445/1 in Idigarai Village, Kovai North Taluk in Coimbatore District.



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The said suit property is mentioned in the schedule to the general power of attorney produced before the Court. Therefore, the said Radhakrishnan has to be treated as authorized agent of Srinivasan. In such case, there is no impediment for the Court below in allowing him to conduct the case as power agent of the original plaintiff. Therefore, impugned order passed by the Court below is set aside and the Civil Revision Petition is allowed by permitting said Radhakrishnan to conduct the case as power agent of original plaintiff Srinivasan. Whether the power of attorney Radhakrishnan is competent to depose on behalf of the original plaintiff in respect of material issues or not is a matter to be decided at the time of final disposal and the same cannot be gone into at this stage.

6. With these clarification, this Civil Revision Petition is allowed.

No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No

Internet : Yes / No

dna

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To
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- 1.The II Additional Subordinate Judge, Coimbatore.
- 2.The Executive Officer
Idigarai Town Panchayat
Coimbatore 641 022.



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S.SOUNTHAR, J.

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