



CRP.No.3107 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM:

**THE HONOURABLE MR. JUSTICE P.B.BALAJI**

**CRP.No.3107 of 2017**

1.Subba Row Apparels,  
rep. by its Partner.

2.J.Raja Ramesh

3.J.Raja Sekar Babu

... Petitioners

Vs

7 Degrees South Limited,  
Rep. by its Power of Attorney Holder,  
Mr.R.Ravichandran.

... Respondent

**Prayer:** The Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order and decree passed in I.A. No.5668 of 2016 in O.S. No.9278 of 2010 dated 03.01.2017 on the file of the VII Additional City Civil Judge, Chennai.

For Petitioners : Mr.J.Ram

For Respondent : No Appearance

**ORDER**



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**WEB COPY** Heard Mr.J.Ram, learned counsel for the Revision Petitioners and defendants in the suit in O.S. No.9278 of 2010.

2. The Revision is preferred challenging the order in I.A. No.5668 of 2016 in O.S. No.9278 of 2010 dated 03.01.2017, permitting certain amendments prayed for by the plaintiff under Order VI Rule 17 of the Code of Civil Procedure, 1908.

3. The learned counsel for the Revision Petitioners would submit that the main contention in the counter affidavit opposing the amendment was that the Power of Attorney was challenged and even a copy of the same was not filed. However, the Trial Court gave erroneous findings that only if the amendment is allowed, the plaintiff/power agent would be in a position to produce a copy of the power of attorney and that in normal course, the suit would have not been numbered without production of the Power of Attorney. He would therefore pray for the matter being clarified and sent back to the Trial Court with suitable directions.



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4. I find force in the submissions of the learned counsel for the petitioners. Even a copy of the Power of Attorney has not been filed in the suit document alongwith the plaint, as can be seen in the list of documents. The Trial Court while passing the impugned order has not referred to the availability of the copy of the power of attorney. The very contention of the learned counsel for the revision petitioners is that there is a chance of the power of attorney being fabricated and filed after the amendment is ordered. Moreover, when a specific contention has been raised in the counter affidavit that the power of attorney has not been filed and the plaintiff is called upon to produce the said power of attorney, it was the duty of the plaintiff to produce the original copy of the power of attorney or atleast to produce a duly certified copy of the same. The findings therefore, rendered by the Trial Court are clearly unsustainable in law.

5. However, considering the fact that in the absence of the power of attorney also, the plaintiff can independently prosecute the suit, I deem it fit to allow the present Civil Revision Petition with the following



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directions:

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(i) The Trial Court shall look into the suit papers and find whether the certified copy of the power of attorney or the original power of attorney is available. In the event of photocopy alone be available, the plaintiff shall be called upon to produce the original power of attorney for the purpose of comparison and if satisfied, the Trial Court shall permit the plaintiff's power agent to prosecute the case as against the revision petitioners/defendants.

(ii) However, in the absence of availability of even a copy of the power of attorney or the plaintiff not being able to produce the original for comparison of the same with the available copy of the power of attorney in the Court bundle, then the power of attorney agent shall not be permitted to prosecute the suit on behalf of the plaintiff. Thereafter, it shall be open to the plaintiff alone to personally prosecute the suit against the defendants.

(iii) Insofar as the other amendments that have been permitted by



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the Trial Court, I do not find any serious infirmity, since the revision petitioners have an opportunity to file an additional written statement and all issues including limitation shall be kept open for a decision at the time of final disposal.

6. With the above directions, the Civil Revision Petition is partly allowed. No costs.

**25.09.2024**

Index:Yes/No  
Speaking order/Non-speaking order  
rkp

To

1.The VII Additional City Civil Judge, Chennai.

2.The Section Officer,  
VR Section,  
Madras High Court,  
Chennai.

**P.B.BALAJI, J.**  
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