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CRP.No.4391 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.No.4391 of 2013
and CMP.No.26618 of 2023

1.P.Nallappan
2.R.Lakshmi
3.Rajagopal

.. Petitioners

Versus

Ratanabai Pawani (Died)
Sandhiresh Pawani

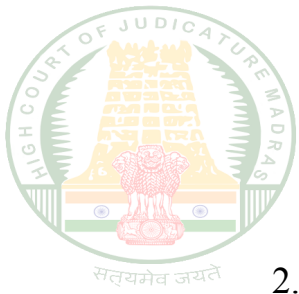
.. Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed in E.A.No.2 of 2023 in EP.No.14 of 2018 on the file of the Sub-Court, Paramathi and consequently struck off the EP.No.14 of 2018.

For Petitioner : Ms.Nalini
for Mr.V.Ravichandran
For Respondents : Mr.L.Mouli

ORDER

Challenge has been made to the order passed by the Executing Court dismissing the application filed by the petitioner to dismiss the Execution Petition filed by the decree holder through his power agent on the ground that power of attorney was not registered.



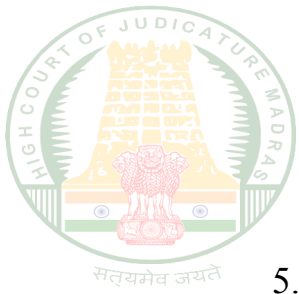
CRP.No.4391 of 2023

WEB COPY

2. The suit has been filed for declaration and recovery of possession of the suit properties. The suit has been decreed in favour of the respondents in O.S.No.252 of 2006 on the file of the Sub Court, Namakkal. Now, the EP has been filed in REP.No.14 of 2018. Of course, EP was filed through a power agent namely Mr.R.Chinnnasamy. At this stage, the judgment debtors/petitioners have filed an application to dismiss the EP on the ground that power of attorney has not been registered as mandated under Section 17(h) of the Registration Act, 1908. The Trial Court has dismissed the application, hence, this revision.

3. The learned counsel for the petitioner submitted that as per Section 17(h) of the Registration Act, power of attorney relates to the immovable properties requiring compulsory registration. Whereas, a notarised copy of the power of attorney alone has been filed which is not permissible in the eye of law, therefore, the EP ought not to have been numbered by the Executing Court. Hence, seeks for allowing this revision.

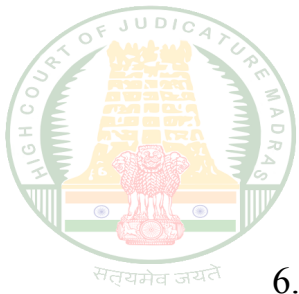
4. Heard both sides and perused the materials placed on record.



CRP.No.4391 of 2023

WEB COPY

5. The only ground on which the impugned order assailed is that the power of attorney is not registered as mandated under Section 17(h) of the Registration Act. On careful perusal of the provisions, particularly, Section 17(h) of the Registration Act would make it clear that instruments of power of attorney relating to immovable property other than those executed outside India require compulsory registration. Power of attorney was not compulsorily registrable prior to 01.12.2012, but the fact remains that in this case, the power of attorney does not relate to transfer of immovable properties, but the specific powers have been given only to appoint advocate commissioner and pursue the execution proceedings. Though the power of attorney also authorises the agent to rent out the premises to the tenant and pay land revenue etc., the very nomenclature and conditions set out in the power of attorney in view of this Court is not *per se* to the immovable properties to effect the transactions. This is only to pursue the pending proceedings and also the collection of rent and pay the charges etc., The authorisation is just like appointing the manager to look after the estate, therefore, as the power of attorney does not relate to transaction of immovable properties and is only with regard to pursuing the case, thus, in view of this Court, registration is not at all required.



CRP.No.4391 of 2023

WEB COPY

6. Therefore, the order does not require any interference from the hands of this Court.

7. Now, it is stated by the learned counsel for the revision petitioner that during the pendency of the Execution Petition, one of the principal/plaintiff died. In that case, it is for the respondents to take necessary steps to implead the legal heirs.

8. With the above observation, this revision stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

05.06.2025

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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CRP.No.4391 of 2023

To,

- 1.The Sub Judge, Sub Court, Paramathi
- 2.The Section Officer
VR Section, Madras High Court

N.SATHISH KUMAR, J.,



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CRP.No.4391 of 2023

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C.R.P.No.4391 of 2023

05.06.2025

Page 6 of 6