



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED: 24.06.2025**

**CORAM**

**THE HON'BLE MR. JUSTICE M.DHANDAPANI**

**C.R.P.[PD](MD)No.2086 of 2021**

**and**

**C.M.P.(MD)No.11101 of 2021**

S.V.Gunasekaran

..Petitioner

Vs.

1.Rajeswari

2.R.Manoharan Chettiar

3.M.Eswari

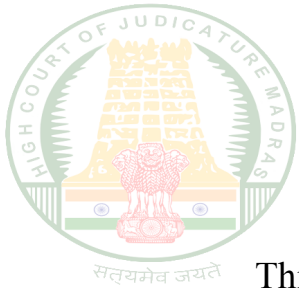
...Respondents

**PRAYER:** Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 23.08.2021 made in Check Slip No.612/I Round (South Zone) in O.S.No.222 of 2019 on the file of the Additional Sub Judge, Pudukkottai and allow this Civil Revision Petition.

For Petitioner : Mr.G.Sridharan

For R-1 : Mr.T.Lenin Kumar

For R-2 & R-3 : No Appearance

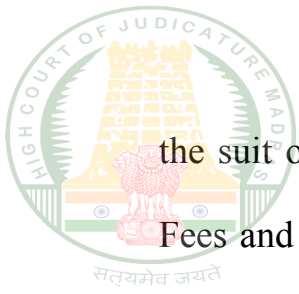


## **ORDER**

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 23.08.2021 made in Check Slip No.612/I Round (South Zone) in O.S.No.222 of 2019 on the file of the Additional Subordinate Judge, Pudukkottai and to allow this Civil Revision Petition.

2. The petitioner herein filed a suit in O.S.No.222 of 2019 before the learned Subordinate Judge, Pudukkottai, against the respondent seeking (a) declaration that the sale deed dated 26.03.2009 is null and void and the same shall not bind the petitioner in any manner; (b) for permanent injunction restraining the first respondent from alienating or creating any encumbrance over the suit property; (c) directing the first respondent to pay a sum of Rs.3,12,000/- being the balance amount collected from respondents 2 and 3, with subsequent interest at the rate of 12% per annum to the petitioner.

3. The learned counsel appearing for the petitioner would submit that the Court below, by an order dated 23.08.2021, issued a Check Slip directing the petitioner to pay a deficit court fee of Rs.15,780/- on the ground that one S.V.Ganesan, who is the younger brother of the petitioner, had executed a sale deed dated 26.03.2009 in favour of the first respondent in the capacity of the power agent of the petitioner. As such, though the petitioner did not directly execute the sale deed, he was deemed to be a party to the transaction. Therefore,



the suit ought to have been valued under Section 40 of the Tamil Nadu Court Fees and Suits Valuation Act, and the appropriate relief for cancellation of the sale deed ought to have been sought.

4. The learned counsel for the petitioner would further submit that the petitioner specifically averred in the plaint that he never executed any power of attorney in favour of his brother. Therefore, the relief sought was for declaration and consequential injunction, along with refund of the rent amount received by the first defendant.

5. The learned counsel would further submit that in similar circumstances, this Court had held that where the plaintiff categorically denies the execution of the power of attorney, the relief sought can be valued under Section 25 of the Tamil Nadu Court Fees and Suits Valuation Act and need not be valued under Section 40. He relies upon the judgment of this Court in the case of ***G.Seethadevi Vs. R.Govindaraj and others*** reported in ***2011 (1) MWN (Civil) 614***.

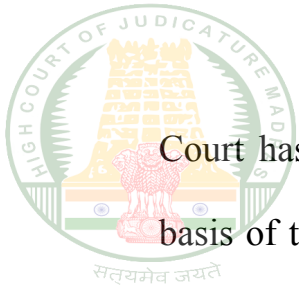
6. Per contra, the learned counsel for the first respondent would submit that, in the present case, the petitioner has averred in his plaint that he never executed a power of attorney in favour of his brother. Admittedly, the petitioner and the alleged power agent are brothers. The case relied upon by the petitioner



pertains to a situation where the power agent was a stranger to the plaintiff. In that case, this Court interfered under Sections 25(d) and 40 of the Act, based on the averments in the plaint, and permitted the plaintiff to pay the court fee under Section 40 of the Act. However, in the present case, the power agent and the petitioner are brothers. Based on an unregistered power of attorney, the power agent executed an unregistered sale deed in favour of the first respondent. Following an inspection by the High Court, a check slip was issued under Section 40 of the Act. It is made clear that when the petitioner is a party to a document and if he refutes it subsequently, he ought to have paid Court fee under Section 40 of the Act and further, it is also made clear that the relief of declaration also includes cancellation and for cancellation of a particular document, necessary Court fee should be paid under the said Section. Such check slip issued by the trial Court need not to be interfered with.

7. In view of the above, this Court finds no infirmity or irregularity in the order passed by the Court below. The Trial Court has rightly directed the petitioner to value the suit under Section 40 of the Tamil Nadu Court Fees and Suits Valuation Act, as the petitioner, though not an executant, is a party to the transaction through his alleged power agent.

8. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed. However, this



Court has not expressed any opinion regarding the sale deed executed on the basis of the un-registered power of attorney, and that issue must be raised only before the trial Court.

**24.06.2025**

Internet:Yes/No

Index:Yes/No

TSG

To

1.The Additional Sub Judge, Pudukkottai.

2.The Section Officer,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**M.DHANDAPANI, J.**

TSG

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**24.06.2025**