

In the Court of the Principal District Judge, Madurai
Present: Thiru. P. Vadamalai, B.Com., B.L.,
Principal District Judge, Madurai

Friday, this the 23rd day of April, 2021

I.A.No.204/2020 in O.S.No.115/2019

Maran

Through its power agent

P.Suresh Babu

...Petitioner/1st defendant

/vs/

R. Kanagavel

Through his power agent

K.C.Sudhakar

...Respondent/Plaintiff

This petition coming on 29.3.2021 for final hearing before me in the presence of M/s S.Devasena, S.Janaki, Advocates for the petitioner and of Thiru N.Tamilmani, Advocate for the respondent and upon hearing both sides and having stood over for consideration till this day, this court delivered the following:-

ORDER

The petitioner has filed this petition under Order III Rule 2(a) of CPC to recognize the power of attorney executed by the defendant on 21.6.2016 in favour of the petitioner to conduct the case.

2. The averments set out in the petition are briefly stated as follows:-

The petitioner is the power of attorney of the defendant in the main case. The respondent has filed the main suit for declaration and recovery of possession. The principal of the petitioner namely Mr.Marani (defendant in the suit) is a

businessman and he has to travel many places for his business. He is not able to contact his counsel to give instructions for the suit. He appointed the petitioner as his power agent on 21.6.2016 to conduct the case in respect of the suit property. Therefore, the petitioner has filed this petition to recognize the power of attorney executed by the defendant on 21.6.2016 in favour of the petitioner.

3. The averments set out in the counter statement are briefly stated as follows:-

The respondent has filed the main suit against the petitioner and the petitioner has filed his written statement. Now, the suit is pending for examination of witnesses on his side. The petitioner has not filed this petition before filing his written statement. He has filed this present petition with bad intention to drag the suit proceedings. The petitioner will not be aware of the contentions of the written statement. The defendant has not chosen to add his power of attorney in the main suit. Without adding his power of attorney the defendant has filed his written statement, which shows the bad intention of the defendant. Hence, the petition is to be dismissed.

4. Point for consideration:-

Whether the petition to recognize the power of attorney executed by the defendant on 21.6.2016 in favour of the petitioner to conduct the case is to be allowed?

5. No oral or documentary evidence was adduced on either side. Heard both sides.

6. Point:

The petitioner has filed this petition under Order III Rule 2(a) of CPC to recognize the power of attorney executed by the defendant on 21.6.2016 in favour of the petitioner to conduct the case.

7. The learned counsel for the petitioner has submitted that the petitioner is the power agent of one Maran, who is the defendant in the main suit. The defendant is businessman and he has to travel many places for his business purpose and hence, he has executed power of attorney dated 21.6.2016 in favour of the petitioner to conduct the main case on behalf of the defendant.

8. The learned counsel for the respondent has mainly argued that the defendant Maran has not chosen to add the petitioner as his power agent though he has executed power of attorney deed on 21.6.2016. He has filed his written statement without adding power agent. The suit is now pending for examination of plaintiff side witnesses. In order to drag the suit proceedings the petitioner has filed this petition with malafide intention.

9. On perusal of records, it is clear that the respondent as plaintiff has filed the main suit against the defendant Maran for declaration and recovery of possession with mesne profits. The defendant has appeared in the suit and has filed his written statement. Now the suit is pending for trial. The petitioner has stated that he is the power of agent of the defendant Maran as per power of attorney deed dated 21.6.2016 and since the defendant is businessman he is not able to conduct

the suit and hence, the power of attorney permitting the petitioner to conduct the case may be recognized. The main contention of the respondent, who is the plaintiff in the suit, that the defendant has filed his written statement without adding the petitioner as his power agent and therefore, the petitioner is not aware of the averments of the written statement. The respondent has not raised any other strong contention against the petition averments. The fact that the defendant Maran is businessman was not denied by the respondent. No specific denial as to the validity of the Power of Attorney is raised in the counter. No prejudice will be caused to the respondent in recognizing the power of attorney dated 21.6.2016 executed by the defendant Maran in favour of the petitioner to conduct the case and it is proper that this petition is to be allowed. Hence, this court holds that this present petition, to recognize the power of attorney executed by the defendant on 21.6.2016 in favour of the petitioner to conduct the case, is to be allowed. The point is answered accordingly.

10. In the result, this petition is allowed. No costs.

Dictated to the Stenographer, transcribed computerized by him, corrected and pronounced by me in open court, this the 23rd day of April, 2021.

Sd/- . P. Vadamalai
Principal District Judge,
Madurai.

List of witnesses examined:-

Both sides – Nil

List of documents marked:-

Both sides - Nil

Sd/-. P. Vadamalai
Principal District Judge,
Madurai

Principal District Court, Madurai

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Fair/Draft Judgment

Date: 23.04.2021

