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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16-10-2026

PRONOUNCED ON : 26-10-2026

Case QR

CORAM

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRP No. 4533 of 2023

CNR:{HCMA011758862023}

AND

CMP NO. 27141 OF 2023

1. Chinathai
   Madura Morthiur Village,
   Mandalavadi Post,
   Thirupattur, Vellore.
2. Soorya
   Madura Moorthiur Village,
   Mandalavadi Post,
   Thirupattur, Vellore.

...Petitioners/
Petitioners/
Defendants

Vs

Ponnin Selvan
Represented by Siva Lingam,
General Power Agent,
No.16A/21 Nethaji Nagar,
Villivakkam, Chennai.

...Respondent/
Respondent/
Plaintiff

Prayer in CRP No. 4533 of 2023:

Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the order dated June 27, 2023 passed in IA.No.1 of 2022 in OS.No. 175 of 2017 by the Principal District Munsif Court at Tirupattur.

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For Petitioner(s): Mr.D.Daniel

For Respondent(s): Ms.U.Meharunisha for Mr.W.M.Abdul Majeed

O R D E R

This Civil Revision Petition has been filed under Article 227 of the Constitution of India, 1950, challenging the Order dated June 27, 2023 passed in I.A. No.1 of 2022 filed by the revision petitioners under Order VII Rule 11 (a) read with Section 151 of 'the Code of Civil Procedure, 1908' ['C.P.C.' for short], in O.S. No.175 of 2017 on the file of 'the Principal District Munsif Court, Tirupattur' ['Trial Court' for short].

2. The revision petitioners herein are the defendants in the Original Suit and the respondent herein is the plaintiff therein. For the sake of convenience, hereinafter, the parties will be referred to as per their array in the Original Suit.

3. The plaintiff - Ponnin Selvan filed the Original Suit through his power agent - Sivalingam who is none other than his father. The reliefs sought for are declaration of title in respect of the portion of suit properties delineated by the points A, B, C, D and E in the rough sketch, delivery of vacant possession of the same and permanent injunction against the defendants not to encroach upon the suit properties. According to the plaintiff, the plaintiff's power agent / plaintiff's

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father inherited the suit properties from his paternal side['பிதுரார்ஜிதமாய்ப் பாத்தியப்பட்டு']. *Vide* two registered Gift Settlement Deeds even dated April 12, 2012, the plaintiff's father gifted the same in favour of plaintiff. The plaintiff is residing abroad and hence he filed the Suit through his father as power agent *vide* 'General Power of Attorney Deed' ['G.P.A.' for short], date of which is in question. As per the jurat portion of the G.P.A., its date is September 13, 2016. The G.P.A. has been notarised on November 2, 2016.

4. According to the defendants, G.P.A. is invalid for two reasons; one, it is not attested by two witnesses as per law and two, while it is allegedly executed in County of Mecklenburg, State of North Carolina, USA on September 13, 2016, the notary signature dates to February 11, 2016 and as such it affirms falsehood. Stating so, the defendants claimed that the Original Suit is not maintainable and accordingly, filed the Order VII Rule 11 (a) Application in I.A. No.1 of 2022 praying to reject the plaint.

5. The Trial Court upon hearing either side, dismissed the Interlocutory Application stating that the defendants did not make out a case under Order VII Rule 11 of C.P.C. Feeling aggrieved, the defendants have come up with this Civil Revision Petition.

6. Mr.D.Daniel, learned Counsel for the revision petitioners / defendants appeared through video conferencing mode. Ms.U.Mehurnisha, learned Counsel

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for Mr.W.M.Abdul Majeed, learned Counsel on record for the respondent / plaintiff, was present before the Court in physical mode.

7. Mr.D.Daniel would submit that the alleged G.P.A. is dated as September 13, 2016 in its jurat portion. But it notary signature found in it, dates to February 11, 2016, that is to say, prior to its alleged execution on September 13, 2016. This fact itself shows that the G.P.A. is a false and fabricated document. The Suit filed by the plaintiff's father as power agent of the plaintiff under the alleged G.P.A. is not maintainable under law and the cause of action pleaded in the plaint is false. Further, he would submit that the G.P.A. is not witnessed by two competent witnesses as per Sections 68 and 69 of the Indian Evidence Act, 1872. Further, he would submit that the G.P.A. is not notarised as per Section 14 of the Notaries Act, 1952. Upon making these submissions, he would contend that the plaint is liable to be rejected as filed without any cause of action. The Trial Court erred in dismissing the Order VII Rule 11 Application. Accordingly, he would pray to allow the Civil Revision Petition, set aside the Order passed by the Trial Court in in I.A. No.1 of 2022 and consequently, allow the same. He would rely on the Judgment of Hon'ble Supreme Court in ***K.Akbar Ali -vs- Umar Khan*** reported in ***(2021) 14 SCC 51*** in support of his submissions.

8. Ms.U.Mehurnisha would submit that the plaintiff - Ponnin Selvan is residing in the North Carolina State of the USA. The G.P.A. was drafted in

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India on September 13, 2016 and sent to the plaintiff residing in the USA who executed it before Jefferson N. Casey, a recognised notary of the County of Mecklenburg, State of North Carolina, USA. The date format followed in the USA is mm-dd-yyyy and when read accordingly, it is clear that the G.P.A. was executed and notarised on November 2, 2016 (02.11.2016) and not on February 11, 2016 (11.02.2016) as claimed by the defendants. Further, G.P.A. is not a compulsorily attestable document and hence, Sections 68 and 69 of the Indian Evidence Act, 1872 are not applicable. Further, Section 14 of the Notaries Act, 1952 would not act as a bar, especially when given that the G.P.A. was executed by son in favour of his father to file and contest a case. Stating that the defendants did not make out any case under Order VII Rule 11 of C.P.C., the learned Counsel would submit that the Trial Court rightly dismissed the Interlocutory Application. Accordingly, she would pray to dismiss the Civil Revision Petition.

9. Heard on either side. Perused the materials available on record.

10.Firstly, copy of the aforesaid G.P.A. based on which the plaintiff's father as power agent of the plaintiff filed the Original Suit, was filed along with the plaint. An application under Order III Rule 2 of C.P.C. was filed and the plaintiff's father was recognised as his power agent for filing and contesting the Original Suit, *vide* Order dated, November 27, 2017 passed by the Trial Court in I.A. No. 1219 of 2017. If at all the defendants are aggrieved with the

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Order passed therein, they ought to have prayed to reopen / reconsider the same or filed a revision over the same. Since the defendants failed to do so, the Order passed under the Order III Rule 2 of C.P.C. in I.A.No.1219 of 2017 reached finality and the same cannot be now questioned under Order VII Rule 11 of C.P.C.

11. Secondly, the defendants are third parties in so far as the aforesaid G.P.A. is concerned. They are not competent persons and have no *locus standi* to question the execution of the G.P.A. Further, G.P.A. is not a compulsorily attestable document and hence, Sections 68 and 69 of the Indian Evidence Act, 1872 do not come into picture.

12. No adjudication is necessary for a G.P.A executed before, and authenticated by a Notary in abroad for the purpose of conducting a case in the capacity as a power agent under the G.P.A. Adjudication is necessary only for the purpose of Section 32 of the Registration Act, 1908, it is worthwhile to note that the aforesaid G.P.A. was duly adjudicated as per Section 33 of the Registration Act, 1908 before the Sub-Registrar, Konnur, Adjudication No.76 of 2026 on November 30, 2016.

13. Fourthly, as regards the question as to whether the acts of a foreign notary can be given legal recognition in India even in the absence of reciprocity under Section 14 of the Notaries Act, 1952, a Division Bench of this Court in

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Dr.Elizabeth Rajan -vs- The Inspector General of Registration, reported in ***2022 SCC OnLine Mad 9444*** referring to the Judgment of Hon'ble Supreme Court in ***Jugraj Singh -vs- Jaswant Singh***, reported in ***(1970) 2 SCC 386***, has held that even in the absence of reciprocity between India and another country within the meaning of Section 14 of the Notaries Act, 1952, the acts of notary in that foreign country can be given legal recognition by Indian Courts. The Division Bench went on to hold that Section 14 of the Notaries Act, 1952 is not a mandatory provision and does not confine Section 85 of the Indian Evidence Act, 1872. In view of the ***Dr.Elizabeth Rajan's Case***, the contention of the learned Counsel for the revision petitioners / defendants that the aforesaid G.P.A. is not notarised as per Section 14 of the Notaries Act, 1952 deserves to be rejected.

14. Fifthly, as rightly pointed out by the learned Counsel for the respondent / plaintiff, the date format followed in the USA is mm-dd-yyyy as opposed to dd-mm-yyyy followed in India. Further, there exist intrinsic evidence in the aforesaid G.P.A., to show that the date format followed by the foreign notary is mm-dd-yyyy. The seal of the foreign notary shows that his commission expires on "08.14.2021". The said fact has also noted by him in each and every page of the aforesaid G.P.A. There exists only 12 months in Gregorian Calendar. The very fact that "14" appears in the second position in "08.14.2021" shows that the date format adopted by the foreign notary is mm-

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dd-yyyy and not dd-mm-yyyy. Hence, the date of execution and attestation written by the foreign notary in the aforesaid G.P.A. must also be read accordingly. Perusal of the aforesaid G.P.A. would reveal that, it contains three pages. On all the three pages, a jural portion containing the date and place of execution along with the signature of the plaintiff and the signature & seal of the notary has been affixed. The date found therein is November 2, 2016 when read as per the mm-dd-yyyy format. In the last / third page, there is yet another jural portion which provides September 13, 2016 as the date of execution. The learned Counsel for the respondent / plaintiff submitted that the aforesaid G.P.A. was drafted in India on September 13, 2016 and conventionally, the same date was added in the jural portion. Thereafter, it was sent to the plaintiff residing in the USA, who executed it before the notary on November 2, 2016 and duly authendicated by Notaries by affixing signature and seal on each pages. The reason assigned on the plaintiff's side is natural and convincing. This Court has no hesitation to take the date *viz.,* November 2, 2016 mentioned by the notary as the date of execution of the aforesaid G.P.A. This does not give raise any suspicion as contended by the defendants much less gives an impression that the aforesaid G.P.A. is false and fabricated.

15. As regards ***K.Akbar Ali's Case*** relied on by the learned Counsel for the revision petitioners / defendants, it is reported in ***(2021) 14 SCC 51***. In that case, the Hon'ble Supreme Court held that the Court can look into a G.P.A.

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when the Suit is based on the same; that when the G.P.A. is executed for the limited scope of administration of the suit property, the same cannot be the basis to sell or enter into a pre-emption agreement in respect of the suit property; and that false cause of action created by clever and illusional pleadings cannot be permitted. In the present case, there is no question of sale, alienation or encumbrance in respect of the suit property based on the aforesaid G.P.A.; the aforesaid G.P.A. was presented only to enable the plaintiff's father to file and conduct case as power agent of the plaintiff against the defendants. As stated *supra*, if really the defendants are aggrieved by the same, they ought to have challenged the Order passed under Order III Rule 2 of C.P.C. in revision or sought the Trial Court to re-open or re-consider its Order. Further, the plaintiff has pleaded cause of action in Paragraph No.9 of the plaint and whether the same is true or not is a matter for trial. The plaint *prima facie* discloses cause of action for the Suit and there appears to be no clever pleadings to create an illusional cause of action. Hence, this Court is of the considered view that ***K. Akbar Ali's Case*** is not applicable to the facts of the instant case.

16. From the above narrative, it can be seen that the defendants have not made out a case under Order VII Rule 11 of C.P.C. The Trial Court was right in dismissing the Order VII Rule 11 Application in I.A. No.1 of 2022. There is no irregularity or illegality with the same. Hence, the Civil Revision Petition is liable to be dismissed.

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17. Resultantly, the Civil Revision Petition is dismissed as devoid of merits with costs payable by the revision petitioners / defendants to the respondent / plaintiff. Connected Civil Miscellaneous Petition is closed.

26-10-2026

Index: Yes
Speaking order
Neutral Citation: Yes

JRS

To
Principal District Munsif Judge Court at Tirupattur.

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R.SAKTHIVEL J.

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