

Daily Orders: WP 12336/2022

1	K S HEMALEKHA	<u>05/02/2024</u>
<p>ORDER ON I.A.NO.1/2022</p> <p>I.A.No.1/2022 is filed by the petitioner to reject the caveat in C.P.Nos.1958/2022 and 6282/2022 filed by R.P.Mohan, Son of Padmahabha R.V., General Manager (HR), Bengaluru, and the vakalath signed by him in favour of the advocate Sri Ismail M.Musba, Enrolment No.2810/2008 for want of authority and jurisdiction under the scheme of Certified Standing Orders to avoid miscarriage of justice and for proper adjudication and to avoid multiplicity of litigations.</p> <p>2. The affidavit is sworn by the petitioner- Annadurai, son of late Kuppuswamy stating that the R.P.Mohan made a statement in his caveat petition that "I am authorized to file this caveat petition" and executed vakalath in favour of advocate to represent on his behalf without producing any documentary evidence to show that he is having valid authorization in terms of law to caveat petition and execute the vakalath.</p> <p>3. Objections have been filed by the caveator/respondent to I.A.No.1/2022.</p> <p>4. Heard learned counsel for the petitioner and learned counsel appearing for the respondent.</p> <p>5. Learned counsel for the petitioner would contend that in the earlier writ petition filed by the petitioner in W.P.No.47448/2017, this Court on 31/10/2017 held that "there was no resolution that the applicant, while presenting the caveat, has been authorized by the company to represent the company before this Court, the caveat filed is an improper one and the petitioner is not required to furnish copy of the petition to the caveator for the reasons stated by the learned counsel for the petitioner" and would contend that in the present facts and circumstances also, the caveat filed by the respondent through R.P.Mohan and the counsel is not maintainable.</p> <p>6. Per contra, learned counsel for the respondent would submit that the respondent has been authorized by the company to represent the company and necessary instruction has been accorded to the respondent-counsel to file</p>		

vakalath on behalf of the company and as per the Standing Order of Sub-Delegation of Powers under Office Order No.HO/144/2023, the Board of Directors has vested powers of the company in CMD authorized him to further sub-delegate the same vide aforesaid office order, and various functions and powers have been delegated to various officers of the company. The aforesaid authorization vests with the power on the person occupying the said post at the relevant point of time in exercise of the power vested in them and produced at Annexure – R4 the company Sub-Delegation of Powers.

7. The objections filed by the caveator is placed on record.

8. The material on record reveals that in W.P.No.47448/2017 preferred by the petitioner herein, respondent Nos.3, 4 and 5 were shown as under:

"3. BHARAT ELECTRONICS LIMITED
A GOVT OF INDIA ENTERPRISE
MINISTRY OF DEFENCE
NAGAVARA POST, OUTER RING ROAD,
BENGALURU-560045
REP BY ITS CHAIRMAN MANAGING DIRECTOR

4. THE ADDL GENERAL MANAGER (IS/CO)
BHARATH ELECTRONIC LIMITED.,
(A GOVT OF INDIA ENTERPRISE
MINISTRY OF DEFENCE)
JALAHALLI, BENGALURU-560013

5. SRI.K.M. SHIVAKUMARAN
S/O MADAI AH, STAFF NO.208316
THE GENERAL MANAGER (HR)
BHARAT ELECTRONICS LIMITED.,
(A GOVT OF INDIA ENTERPRISE
MINISTRY OF DEFENCE

Respondent No.3 was represented by one M.B. Gauthama who was the then Chairman Managing Director ("CMD") and respondent No.5 was K.M.Shivakumaran, the then General Manager (HR), respondent Nos.3 and 5 signed the vakalath for the company as CMD and General Manager (HR), as they represented the company to the said post during that point of time. The said writ petition came to be disposed of with a direction to the petitioner to response to the show-cause issued upon him.

9. The caveat No.8815/2017 filed by the then General Manager, K.M.Shivakumaran, in Writ Petition No.47448/2017, was authorized to do so under the Companies Sub-delegation Powers i.e., office order HO/144/011 dated 15.03.2001, wherein, by virtue of clause 4(a) and 4(b) of Chapter III, the General Manager (Human Resources) is authorized to sign/file any legal document on behalf of the company/CMD as is evident from Annexure – R2 produced along with the objections to I.A.No.1/2022. The General Manager (HR) has signed both the affidavits accompanying the caveat and the sub-delegation power was made available as per Annexure – A as is evident from the caveat at its time of filing before this Court in W.P.No.47448/2017. The present caveat in Caveat Petition No.6281/2022 is filed by the present General Manager (HR), R.P.Mohan under Subdelegation of Powers i.e., office order No.HO/144/023 dated 19.06.2020, wherein, by virtue of clause (a) and (b) of Chapter III, General Manager (HR) is authorized to file/sign any legal document on behalf of the company/CMD.

10. It is relevant to note that, irrespective of whether General Manager (HR) is made a party or not, he is vested with authorization under the aforesaid Sub-delegation Powers to institute, conduct, defend, compound or abandon any legal or arbitration proceedings, by or against the company and to sign the documents such as vakalath, plaint etc., on behalf of the company. The Sub-delegation of Powers of order No.HO/144/023 is placed on record by the respondent as per Annexure – R4.

11. A plain reading of the Minutes of the Board Meeting annexed to the objections to I.A.No.1/2022 at Annexure – R2, it can be seen that the Board of Directors has vested powers of the company in CMD and authorized him to further sub-delegate the same vide aforesaid office order, various functions and powers have been delegated to various officers of the company as per the delegation of powers at Annexure – R4.

12. In light of the aforesaid authorization being vested, the petitioner's contention that, the caveat filed by one R.P.Mohan and the authorized advocates has to be rejected, is unsustainable and devoid of merits and accordingly,

I.A.No.1/2022 is hereby dismissed with cost of Rs.10,000/- payable to the Karnataka State Legal Services Authority within four weeks from today.

13. After passing the order on I.A.No.1/2022, when the learned counsel was requested to argue the matter on merits, since the matter was heard in part on the earlier date, he threw he threw the files aghastly stating that he wants to appeal against the order passed on I.A.No.1/2022, counsel for the petitioner raised his voice, spoke in a harsh manner and made derogative remarks against the Court stating that "he is not bothered about the consequences". This Court, inspite of his rude behaviour on several occasions, had ignored his arrogance and had accommodated his presence before the Court. Petitioner's counsel has been consistently protracting the proceedings by filing several applications, which is evident from the order sheet.

14. Upon consideration of the events that transpired during the proceedings of the instant case, the Court observes with grave concern, the conduct of the petitioner's counsel, Sri M.Veerbhadrappaiah, which warrants initiation of contempt proceedings suo motu. The Court notes the following:

(i) Misbehavior: Throwing his files ghastly in dismay after rejection of IA 1/2022.

(ii) Arrogance: Using singular language towards the Bench with a directive voice and inspite of the Court warning him to mind his behaviour, he mentioned "least bothered of the consequences" and left the Court in sheer anger throwing the files.

(iii) Backtalk: Talking in loud voice and refusing to argue the matter on merits despite repetitive request from the Court as the matter was argued on merits before hearing I.A.No. 1/2022.

(iv) Violation of Court Rules: Constantly interrupting the Court proceedings while the Court was passing orders.

15. The act and conduct of the advocate tends to undermine the dignity of the Court and hinders the due course of judicial proceedings or administration of justice. The cumulative acts of the advocate would amount to undermine the dignity and majesty of the Court apart from interference with the court's normal proceedings and procedures.

16. The Registrar (Judicial) of this Court to take necessary steps to initiate suo motu criminal contempt proceedings against the petitioner's counsel, Sri M.Veerabhadrappaiah under the provisions of Section 2(c) of the Contempt of Courts Act, 1971, by placing this order before the Hon'ble Chief Justice for appropriate orders.

17. This Court deems it appropriate to forward copy of this order to the President, State Bar Council, through the Registrar (Judicial), High Court of Karnataka, Bengaluru.

18. In view of the facts narrated above, this Court opines that the matter be released from part heard.

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