

ORIGINAL CIVIL.

Before Buckland J.

1933
Dec. 18.

In re EASTERN TAVOY MINERALS
CORPORATION, LTD.

Company—Authorised agent—Right of audience—Code of Civil Procedure (Act V of 1908), O. III, rr. 1, 2.

A director of a company, holding a power-of-attorney, authorising him "to appear for and on behalf of the company, to conduct and represent the company in the proceedings, etc., etc.," claimed the right of audience on behalf of the company.

Held that he had no right of audience.

Hurchand Ray Gobourdhan Das v. Bengal-Nagpur Railway Co. (1) relied on.

COMPANY MATTER.

The necessary facts appear from the judgment.

Clough for the applicant.

BUCKLAND J. On an application to be made on behalf of Clyne Gordon Stewart under section 38 of the Indian Companies Act for the rectification of the register of the Eastern Tavoy Minerals Corporation Limited, Mr. Harcourt, who says that he is a Director of the company, has claimed the right of audience on behalf of the company by virtue of a power of attorney executed in his favour by two persons, who, as directors of the company, have sealed it with the common seal of the company. The power of attorney nominates and constitutes "F. L. Harcourt, a director of the company, to appear for and on behalf of the company, to conduct and represent the company in the proceedings in an application made by C. G. Stewart in the High Court and for the proper prosecution of the said proceedings to do all such acts and deeds as he may deem necessary and the company hereby agrees to ratify all his acts and deeds as made for and on behalf of the company."

It has been objected on behalf of the applicant that this gentleman has no right of audience.

Mr. Harcourt has informed me, though he has not produced the Court Minutes or any judgment by my learned brother, that Panckridge J., in a suit against the Eastern Tavoy Minerals Corporation, Limited, allowed him to plead, basing his decision upon Order III, rule 1, of the Civil Procedure Code. That order and rule provide that—

Any appearance, application or act in or to any court may
 be made or done by the party in person or by his recognised agent.

Rule 2 says that—

The recognised agents of parties by whom such appearances, applications and acts may be made or done are—

(a) persons holding powers-of-attorney, authorising them to make and do such appearances, applications and acts on behalf of such parties.

To plead is not to make or do an appearance, or an application or an act and is not in my judgment within the order and rules cited. I am glad to find that in this matter I am supported by so high an authority as the late Sir Lawrence Jenkins C.J., who held that a recognised agent as such has no right of audience. The matter in which he had to consider the question was *Hurchand Ray Gobourdan Das v. Bengal-Nagpur Railway Co.* (1). In the Small Cause Court, Sealdah, the plaintiff was represented by his authorised agent. The judge of the Small Cause Court held that though a recognised agent may appear, act and apply on behalf of a plaintiff or defendant “the law does not give him any power to “plead on behalf of his principal.” The learned Chief Justice and Chatterjea J. held that a recognised agent as such has no right of audience. I hold that Mr. Harcourt has no right of audience and I cannot hear him on this application. This does not prevent his filing an affidavit which he desires to do under the power of attorney produced by him. The power of attorney and the affidavit may therefore both be filed.

Attorneys for applicant: *G. C. Chunder & Co.*

S. M.