equally loathe in applying such presumption in favour of the party relying on the document.

The case at hand is similar, as it is evident from the attestation clause of P7 that the Notary Public relied on the "information" provided by the two attesting witnesses with regard to the identity of the executant, who was otherwise not known to him. In these circumstances, I am of the opinion that the Respondents have failed to furnish sufficient evidence to satisfy court that the applicable formalities of the law have been complied with in executing the power of attorney, or to show, as contemplated by Section 69 of the Evidence Ordinance, which is applicable to proof of any document executed abroad, that the "attestation of one attesting witness at least is in his handwriting, and that the signature of the person executing the document is in the handwriting of that person."

It is also pertinent to note that Mr. Berwick had in his judgement in the *Nama Sivaya* case very correctly analyzed the question of the form of delegation of authority as one falling within the law relating to agents, but it does not appear whether he considered the question as to whether the insertion by Ordinance No. 22 of 1866, of *inter alia* the words "principals and agents" into the Introduction of English Law Ordinance (Civil Law Ordinance) No. 5 of 1852 had the effect of making the English law applicable on this subject applicable in Sri Lanka. Of course, that would not have made any difference to the decision in that case, as Mr. Berwick himself had concluded, as will be seen from sub-paragraph (c) of my summary of the reasoning of Mr. Berwick, that the Statute of Frauds of 1677 did not require attestation for conferment of authority for executing a deed.

However, it is important to note that the relevant provisions of the Statute of Frauds have been replaced in the United Kingdom by Sections 74(3) to 74(5) and Sections 123 to 129 of the Law of Property Act 1925 (c 20) and Section 219 of the Supreme Court of Judicature (Consolidation) Act 1925 (c 49), which in turn have given way to Section 1 of the Powers of Attorney Act of 1971 (c 27). The latter Act has been amended by the Law of Property (Miscellaneous Provisions) Act of 1989 (c 34), and as so amended, Section 1(1) of the Powers of Attorney Act of 1971 would read as follows:-

> 1(1) An instrument creating a Power of Attorney shall be *executed as a deed*, or by direction and in the presence of, the donor of the power. (*emphasis added*).

It is noteworthy that the Law of Property (Miscellaneous Provisions) Act of 1989 generally abolished the prior law which required a seal for a valid execution of a deed by an individual, and substituted for the words "signed and sealed by" which were found in Section 1(1) of the Powers of Attorney Act of 1971 the words "executed as a deed". Section 1(3) of the 1989 Act also provided that-

An instrument is validly executed as a deed by an individual if, and only if—

> (a) it is *signed*—
>
> > (i) *by him in the presence of a witness who attests the signature*; or
> >
> > (ii) at his direction and in his presence and the presence of two witnesses who each attest the signature; and