

**HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**CIVIL REVISION PETITION No.2372 of 2017**

**ORDER:**

The Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner against the order and decree, dated 16.03.2017, passed by the Principal District Judge, Nellore, in I.A.No.206 of 2017 in O.S.No.106 of 2015.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents. Perused the material available on record.

3. For the sake of convenience, the parties herein are referred to as arrayed in O.S.No.106 of 2015.

4. The plaintiffs filed I.A.No.206 of 2017 in O.S.No.106 of 2015, under Order 22 Rule 3 of the Civil Procedure Code, 1908 (for short, "C.P.C.") praying to permit them to implead one Smt. Nambi Kumadvathi, W/o. Late Kasi Gurunatham, as the proposed 9<sup>th</sup> plaintiff in O.S.No.106 of 2015, and to recognize her along with plaintiffs 5 & 6 as the legal heirs of the deceased 3<sup>rd</sup> plaintiff, wherein the learned Principal District Judge, Nellore, allowed the said I.A. by impleading the proposed party as 9<sup>th</sup> plaintiff and by recognizing plaintiffs 5 & 6 and the proposed 9<sup>th</sup> plaintiff as legal representatives of the deceased 3<sup>rd</sup> plaintiff for the purpose of proceedings.

5. The affidavit in support of the said I.A. was filed by one Kaluvai Venkateswarlu Reddy, S/o. Subba Reddy, claiming

himself as the General Power of Attorney agent of plaintiffs 1 to 8 and as an authorized person to file the affidavit on behalf of the 9<sup>th</sup> plaintiff in the above said I.A.

6. The defendants 2 to 5 resisted the said I.A. by contending that due to death of the 3<sup>rd</sup> plaintiff, the General Power of Attorney, dated 03.08.2012, executed in favour of Kaluvai Venkateswarlu Reddy was ceased and as such, the affidavit filed on behalf of the 9<sup>th</sup> plaintiff in the above said I.A. cannot be accepted and that the plaintiffs 5, 6 and 9 ought to have filed their own affidavit instead of the affidavit of the General Power of Attorney holder and prayed to dismiss the said I.A.

7. The learned Principal District Judge, Nellore, allowed the above said I.A. by observing as follows:

“And from the proceedings in this case and also the affirmation of petitioners, 3<sup>rd</sup> petitioner/3<sup>rd</sup> plaintiff, died intestate on 24.9.2016 during pendency of the suit and this fact is not disputed by respondents 2 to 5, and furthermore, petitioners 5, 6 and 9 are the children and wife of deceased 3<sup>rd</sup> petitioner/3<sup>rd</sup> plaintiff, and they succeeded to his estate upon his death intestate, and though 3<sup>rd</sup> petitioner/3<sup>rd</sup> plaintiff died during pendency of the suit, having executed General Power of Attorney in favour of Kaluvai Venkateswarlu Reddy, and the said General Power of Attorney came to an end, and nevertheless said General Power of Attorney holder Kaluvai Venkateswarlu Reddy still has authority to represent the other petitioners in the proceedings, therefore non-filing of affidavit of petitioners 5, 6 and 9 in this application, is not going to affect the prayer of

petitioners to implead them, hence this court is inclined to allow the petition.”

Aggrieved by the same, the present Civil Revision Petition is filed by the defendants.

8. The controversy being in narrow compass, when the matter was listed on 28.04.2017 and 23.06.2017, liberty was given to the learned counsel for the 9<sup>th</sup> respondent to file an affidavit before this Court by stating in clear terms whether vakalat has been filed on behalf of the 9<sup>th</sup> plaintiff in the above said I.A. and whether any authorization has been given in favour of the said Kaluvai Venkateswarlu Reddy, the General Power of Attorney holder, for filing the affidavit on her behalf in the above said I.A.

9. Today, counter affidavit on behalf of the 9<sup>th</sup> respondent, sworn before Sri S.K. Mahaboob Saheb, Advocate & Notary, Mulapet, Nellore, is filed before this Court by categorically stating that the 9<sup>th</sup> respondent had executed a vakalat in favour of the Advocate, who had appeared on her behalf in the trial Court and also authorized the said Kaluvai Venkateswarlu Reddy, S/o. Subba Reddy, as a General Power of Attorney holder to represent him on her behalf and also to file the affidavit in support of the above said I.A.

10. Having regard to the facts and circumstances of the case and in the light of the counter affidavit filed by the 9<sup>th</sup> respondent before this Court, the Civil Revision Petition is liable to be closed, as there is no basis for interference of the

impugned order, dated 16.03.2017, passed by the Principal District Judge, Nellore, in I.A.No.206 of 2017 in O.S.No.106 of 2015.

11. Accordingly, the Civil Revision Petition is closed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this civil revision petition shall stand closed.

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**CHALLA KODANDA RAM, J**

Date: 7<sup>th</sup> July, 2017

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