

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.10.2018

Coram:

The Honourable Ms.Justice P.T.ASHA

C.R.P(PD).No. 1584 of 2012

1. K.Malliga
2. Prema
3. K.Mohan Doss
4. K.Padmanaban
5. K.Chandrasekar

...Petitioners

Versus

1. Pangaja Malar
2. Yoga Malar
3. R.Ramesh

...Respondents

PRAYER: This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code against the order and decretal order in I.A.No.937 of 2011 in O.S. 248 of 2011 on the file of the Additional District Munsif, Poonamalle, dated 27.01.2012.

For Petitioners : Mr.D.J.Venkatesan

For Respondents : Not ready in notice
for R1 & R2
R3- given up

ORDER

This Civil Revision Petition is filed challenging the order dated 27.01.2012 passed in I.A.No. 937 of 2011 in O.S. 248 of 2011 on the file of the Additional District Munsif, Poonamalle in permitting the 2nd and 3rd defendants to be represented by a power agent.

2. The facts in brief are as follows:

The Revision Petitioners have filed a suit for permanent injunction against the defendants and pending the suit, the 2nd and 3rd defendants had filed an application in I.A.No. 937 of 2011 to permit their power agent to represent them. A perusal of the application would show that the 2nd and 3rd defendants are the petitioners and the prayer sought for is that "the petitioner may be permitted to represent the 2nd and 3rd defendants as their authorised power agent". In the affidavit filed in support of the said application one Mr.Chandrasekar claiming to be an authorised agent under a power of Attorney on 25.07.2011 has sworn to the affidavit.

3. The Revision petitioners who are the respondents had opposed the said application, inter alia contending that the reason taken is only on account of the fact that the 2nd and 3rd defendants did not want to be cross examined.

4. Despite the fact, the learned Additional District Munsif, Poonamallee, allowed the said application. Challenging the same, Revision Petitioners are before this Court.

5. As pointed out by the learned counsel for the petitioners, the prayer in the petition lack clarity. Further, it is seen that the

application is not accompanied with a copy of the Power of Attorney, as contemplated under the Rule 16 of the Civil Rules of Practice and there is no affidavit by the principals, as contemplated under Rule 17 of the Civil Rules of Practice.

6. Despite, such a lack of clarity, with reference to the petition, the learned Additional District Munsif, Poonamallee has allowed the application only on the ground that the evidence would be deposed by the 2nd and 3rd defendants and till such time, they could be represented by the power agent. I am unable to agree with the view expressed by the learned Additional District Munsif. When a particular procedure is contemplated under law, the said procedure should be followed to the letter and spirit and there cannot be a deviation from the same. In the absence of the same, allowing such a petition is unsustainable.

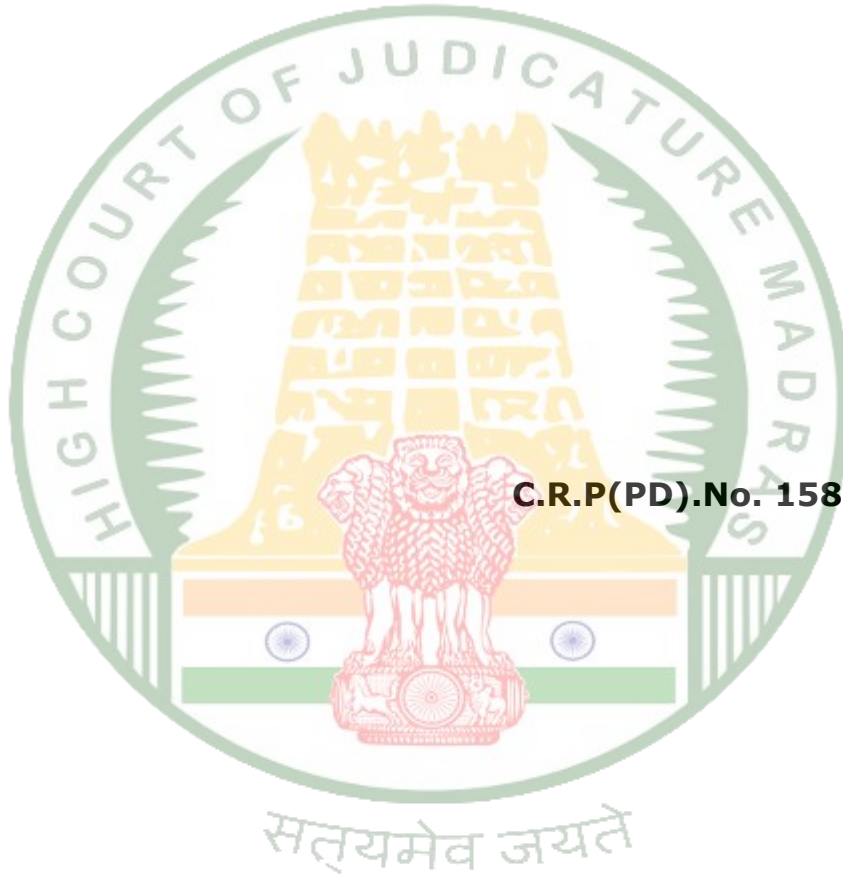
7. In the result, the Civil Revision petition is allowed. The order of the learned Additional District Munsif, Poonammallee in I.A. 937/2011 is set aside. However, there shall be no order as to costs.

29.10.2018

vkrr/kmm

P.T.Asha, J.,

vkrr/kmm



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