

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No.203 of 2017
and
C.M.P.Nos.878 and 4962 of 2017

Smt. Lakshmi .. Petitioner

Vs

1.Smt.K.Umamaheswari

2.Smt.Geetha Padmini

3.Smt.Sudha

4.Smt.Santhamani .. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 06.09.2016 in I.A.No.163 of 2016 in O.S.No.543 of 2012 on the file of the I Additional District Judge, Coimbatore.

For Petitioner : Mr.C.R.Prasanan

For Respondents : Mr.I.Abarar Md. Abdullah

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 06.09.2016 in I.A.No.163 of 2016 in O.S.No.543 of 2012 on the file of the learned I Additional District Judge, Coimbatore.

2. According to the revision petitioner/plaintiff, the petitioner filed a suit in O.S.No.543 of 2012 against the respondents/defendants for declaration and permanent injunction on the file of the I Additional District Judge, Coimbatore. In the aforesaid suit, the petitioner filed an application in I.A.No.163 of 2016 under Order III Rule 2 of CPC seeking to substitute the petitioner/plaintiff's son viz., Rajendran as Power of Attorney holder to conduct the case and adduce evidence on behalf of the petitioner and the same was allowed on 06.09.2016 permitting the said Rajendran as Power of Attorney holder of the petitioner to conduct the case, but he cannot be allowed to adduce evidence unless the plaintiff is examined first or she forfeits that she will not examine herself as a witness, after examination of any 3rd party witness including the Power of Attorney holder. Aggrieved by the said order, the present Civil Revision Petition

has been filed by the petitioner.

3.The learned counsel for the petitioner submitted that the petitioner may be permitted to examine the plaintiff as P.W.1 in the aforesaid suit by filing appropriate application, before the Court below, by appointing an Advocate Commissioner and thereafter, if necessary, she may also be permitted to file an application to examine the Power of Attorney holder at the later stage.

4.The learned counsel for the respondents submitted that the respondents have no objection for the submission made by the learned counsel for the petitioner, subject to filing of appropriate applications before the Court below, to examine plaintiff and the Power of Attorney holder as witnesses.

5.Considering the facts and circumstances of the case, submission made by the learned counsel for both sides, this Court is inclined to pass the following order:

"(i)The aforesaid submissions made
by the learned counsel for both sides is recorded.

(ii)Liberty is granted to the petitioner

to file an appropriate application for appointing an Advocate Commissioner to examine the plaintiff as P.W.1 (as witness) in the aforesaid suit at the cost of the petitioner.

(iii)The plaintiff, shall file another application to examine the Power of Attorney holder as witness before the Court below, at a later stage, if necessary.

(iv)The learned I Additional District Judge, Coimbatore is directed to dispose of O.S.No.543 of 2012 as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order.

(v)The order dated 06.09.2016 passed in I.A.No.163 of 2016 in O.S.No.543 of 2012 by the learned I Additional District Judge, Coimbatore is modified.

(vi)The Civil Revision petition is

disposed of with the above directions. No costs.
Consequently, connected miscellaneous petitions
are closed.

14.03.2018

Index : Yes/ No

Speaking order/ Non speaking order

cla

To

The I Additional District Judge,
Coimbatore.



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D. KRISHNAKUMAR J.,

cla



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