



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) .No.2518 of 2016

WEB COPY

Pitchaiah ... Petitioner/1<sup>st</sup> Respondent/Defendant 1

Vs.

1.G.Chellappa ...Respondent 1/Petitioner/Plaintiff

2.G.Gopal

3.P.Subbulakshmi ... Respondents 2&3/Respondents/Defendants 2&3

PRAYER: Petition filed under Article 227 of Constitution of India, to call for the entire records in respect of I.A.No.626 of 2016 in O.S.No.251 of 2015 on the file of the Principal District Munsif Court, Tuticorin and set-aside the fair and decreetal order dated 26.08.2016 passed in I.A.No.626 of 2016 in O.S.No.251 of 2015 by the Principal District Munsif Court, Tuticorin.

For petitioner : Mr.V.R.Venkatesan

### ORDER

The first defendant in O.S.No.251 of 2015 on the file of Principal District Munsif, Thoothukudi, is the revision petitioner herein. The said suit was filed for securing the relief of permanent injunction. The suit was filed by one Chellappa, who is none other than the brother of the revision petitioner. After filing the said suit, the plaintiff took out I.A.No.626 of 2016 under Order 3 Rule 2 of CPC, for prosecuting the suit proceedings through his son Rajagopal. The Court below, by order dated 26.08.2016, allowed the I.A. Questioning the same, this Civil Revision Petition has been filed.

2. The learned counsel appearing for the petitioner, placing reliance on the order dated 16.10.2015 passed in C.R.P.(MD)No.2238 of 2015, contended that the impugned order has to be set aside.

3. This Court is of the view that the plaintiff is definitely entitled to pursue the matter through his power agent. But then, the power agent cannot let in oral evidence, on behalf of the plaintiff, that is within the personal knowledge of the principal, as per the decision of the Hon'ble Supreme Court reported in 2005 (2) SCC 217 in Janki Vashdeo Bhojwani Vs. Indusind Bank Ltd.



4. Therefore, merely because, the I.A.No.626 of 2016 filed by the plaintiff has been allowed, that does not meant that the power agent can step into the shoes of the plaintiff for all purposes.

5. With this clarification, this Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

To:

1.Principal District Munsif,  
Tuticorin.

2.The Record Keeper,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai. **(2 copies)**

+1CC to Mr.V.R.Venkatesan, Advocate, SR.No. 77696

C.R.P. (PD) (MD) .No.2518 of 2016  
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PNN

ES/KAK/SAR 3/05.09.2018/2P/5C