

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

C.R.P.No.3173 of 2019
and C.M.P.No.20688 of 2019

Mugundhan

... Petitioner / Respondent

-Vs-

G.Sree Ranjani

... Respondent / Petitioner

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 22.07.2019 passed in I.A.No.1 of 2019 in O.P.No.4722 of 2018 dated 22.07.2019 on the file of the learned V Additional Judge, Family Court at Madras.

For Petitioner : Mr.S.Sadhasharam

O R D E R

This revision has been filed against the fair and decreetal order dated 22.07.2019 passed in I.A.No.1 of 2019 in O.P.No.4722 of 2018 dated 22.07.2019 on the file of the learned V Additional Judge, Family Court at Madras.

2. Before the family Court, the respondent filed I.A.No.1 of 2019, seeking permission of the Court, to be represented by her father as her agent since the respondent wife has to be in abroad for her job and the said petition has been allowed by the Court below, through the impugned order. Aggrieved over the same, the present revision has been filed by the revision petitioner / husband.

3. Learned counsel for the petitioner submits that, if at all the respondent wife has to be in abroad and therefore for every hearing she cannot come or it is not possible for her to come to conduct the case, for the said purpose, if she wants to appoint her father to represent her in the said O.P.No.4722 of 2018 before the family Court, she can do the same, provided, in the capacity as a power agent, the father of the respondent wife cannot depose before the trial Court ie., the family Court, if the need arises, as the same has already been prohibited by virtue of various judgments rendered by this Court.

4. I have considered the submissions of the learned counsel for the petitioner and also perused the materials placed on record.

5. Order III Rule 2 of C.P.C., reads as follows,

"2. Recognised Agents :

The recognised agents of parties by whom such appearance, applications and acts may be made or done are:-

(a) persons holding power of attorney, authorizing them to make or do such appearance, applications and acts on behalf of such parties."

6. Under Order III Rule 2 of C.P.C., the recognised agent of parties, by whom such appearance, applications and acts may be made or done, are the persons holding the Power of Attorney, who can do such appearance, applications and acts on behalf of such parties.

7. Therefore, what are all the applications to be filed and what are all the actions to be made on behalf of the party under Order III Rule 2 of C.P.C., the authorised agent, who is none other than the Power of Attorney holder, can do it. But at the same time, in respect of deposing before the Court as witness, the recognised agent cannot depose on behalf of the party, and only the respective party has to come up and depose before the Court.

8. There is no quarrel with respect to the said legal position. In fact, keeping in mind the said legal position, the learned Judge, in the impugned order, while allowing the petition, the learned Judge has directed that the petitioner shall appear before the Court as and when required.

9. The word "as and when required" means, whenever the presence of the respondent wife is required, especially in the context of deposition or being a witness for herself, certainly her presence may be required and only in that circumstances, the respondent wife has to come over and depose before the family Court.

10. Since that provision has already been made in the very impugned order itself, the petitioner need not have any apprehension that the father of the respondent, who is the power of attorney holder, would not only represent the respondent, but also would depose on behalf of the respondent.

11. In that view of the matter, this Court feels that there is no infirmity in the impugned order and hence it does not require any interference. The Civil Revision Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

KST

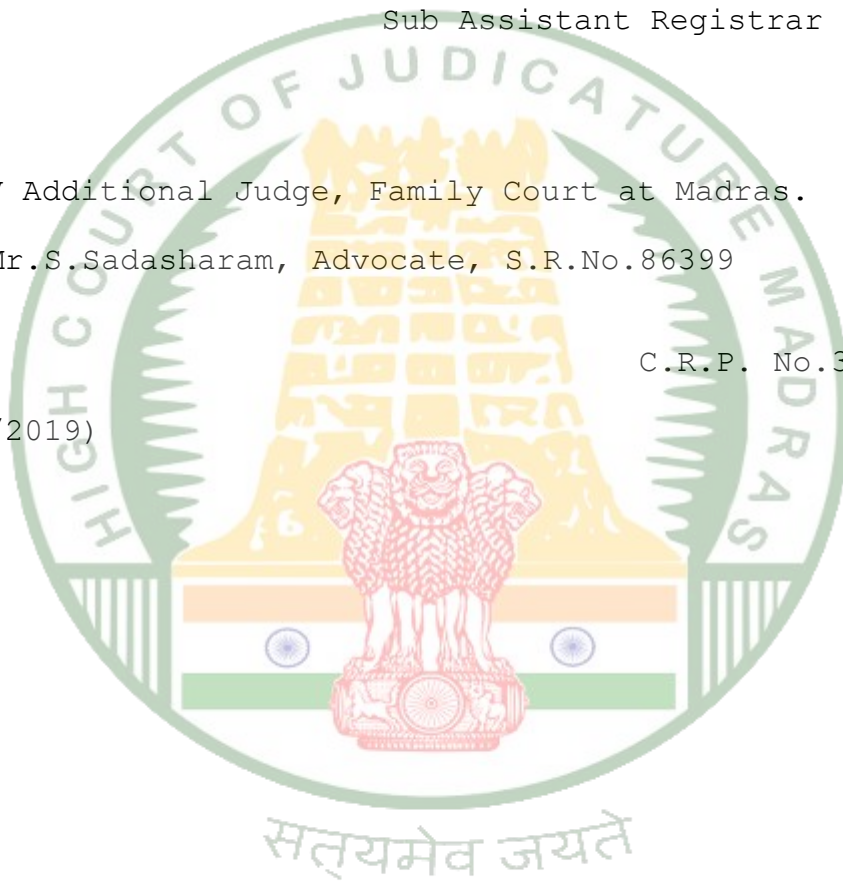
To

1) The V Additional Judge, Family Court at Madras.

+1 cc to Mr.S.Sadasharam, Advocate, S.R.No.86399

C.R.P. No.3173 of 2019

MG (CO)
SSM(18/10/2019)



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