IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No. 490 of 2018
and
C.M.P.No. 2558 of 2018

1.Kaliyamoorthy
2.Sellamuthu
3.Ramachandran ...Petitioners

Vs.

1.Rajendran
2.Saraswathi
3.Jayakodi
4.Minor Tamilmaran ..Respondents

Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 03.10.2017 passed in I.A.No.1352 of 2017 in O.S.No.251 of 2010 on the file of the Principal District Munsif Court at Kallakurichi.

सत्यमेव जयते
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For Petitioner : Mr.S.Ramajayam
For Respondents : Mr.N.Ramesh

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O R D E R

This revision is by the defendants in O.S.No.251 of 2020 challenging the order permitting the plaintiff to be represented by a power agent.

2. The suit is one for permanent injunction restraining the defendants from interfering with the plaintiffs' possession of the suit property. Pending suit, the original plaintiff, Uthirapathi died and plaintiffs 2 to 4 were impleaded as his legal heirs. Claiming that the plaintiffs 2 to 4 had appointed one Rajendiran as their power agent, an application was filed seeking an order under Order 3 Rule 2 of CPC permitting the plaintiffs to prosecute the suit through their power agent. The said petition was allowed by the Trial Court. Aggrieved, the defendants have come up with this revision.

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3. The contention of the learned counsel for the petitioner is that a power agent must be a local resident and since the power agent residing 100

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kilometers away from the suit property, he cannot be appointed as a power agent. He would further submit that a power agent cannot depose on behalf of the plaintiffs with reference to the matters that occurred prior to his appointment. The first contention, in my considered opinion, stems out of a misunderstanding of Order 3 Rule 2 of C.P.C. Order 3 Rule 2(b) provides for representation of persons doing business and does not deal with person holding a document of power of attorney. Therefore, the said contention is rejected.

4. As regards the second contention, it is open to the defendants to take all objections with regard to the capability of the power agent to let in evidence when he is examined on the side of the plaintiffs. The defendants cannot object to the plaintiffs being represented by a power agent.

5. In view of the above, this civil revision petition fails and it is accordingly dismissed. Consequently, connected miscellaneous petition is closed. No costs.

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Kkn **18.09.2020**

R.SUBRAMANIAN, J.
KKN

To:
The Principal District Munsif Court,

Kallakurichi.

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