

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP (PD) No. 341 of 2021

And

C.M.P.No. 2997 of 2021

Mrs. R. Kalaiselvi ... Appellant/Petitioner/Plaintiff

-Vs-

P.Raja ... Respondent/Respondent/Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.11.2019 in I.A.No. 101 of 2017 in O.S.No. 20 of 2016 passed by the learned II Additional District Judge, Vellore at Ranipet.

सत्यमेव जयते ***

For Petitioner : Mr. K.Thyagarajan

For Respondent : No appearance

ORDER

The respondent had been served. There is no representation.

2. The petitioner is the plaintiff in O.S.No. 20 of 2016 now pending on the file of the learned Second Additional District Judge at Ranipet in Vellore. The suit had been filed seeking partition and separate possession. It is stated that the plaintiff is a resident of Chennai and cannot go over to Ranipet to tender evidence.

3. It is also stated that as of now, she also has a small child which is also a limiting factor to travel to Ranipet. She has therefore appointed a power of attorney agent to tender evidence on her behalf.

4. It is seen that there is a close nexus between the plaintiff and the power agent as the learned counsel stated that the plaintiff had also received a sum of Rs.1/- crore from the agent. Therefore, the power agent will speak not just on the facts which had been pleaded in the plaint, but in effect is the defacto plaintiff. A written statement has been filed by the

defendant questioning each and every transaction. Naturally all these facts will have to be put to the plaintiff during cross examination. The plaintiff cannot wriggle out of such responsibility to answer the issues raised by the defendant and must voluntarily subject herself to be questioned by the defendant or all the aspects surrounding the issues raised in the suit.

5. The learned Judge before whom the application in I.A.No. 101 of 2017 had been filed under Order 3 Rule 1 of the Code of Civil Procedure, seeking to be represented by a power agent had dismissed the said application.

6. I have perused the order and I hold that cogent reasons have been given. The learned Judge had very clearly stated that the onus on the plaintiff to tender evidence is sacrosanct and it cannot be taken away. It had also been stated that it was only after perusing the written statement did the plaintiff appointed a power of attorney agent.

7. It is also seen, as stated by the learned counsel for the petitioner herein that there is a direct business transaction between the plaintiff and the

C.V.KARTHIKEYAN, J.

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power of attorney agent and it is clear that the plaintiff wants to avoid entering witness box. She has no such option. She has to tender evidence.

8. With the above said observation, this Civil Revision Petition is dismissed. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

22.06.2021

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Index: Yes/No

Internet: Yes/No.

Speaking / Non speaking

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