



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.12.2021**

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.R.P. (MD) No.1882 of 2021

and

C.M.P. (MD) No.10130 of 2021

Bharathi

... Petitioner/Petitioner/
Plaintiff

vs.

1.S.Mariappan

2.S.Saravanan

3.S.Manian

... Respondents/Respondents/
Defendants

PRAYER:- This Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 21.09.2021 passed in I.A.No.23 of 2021 in O.S.No.54 of 2019 on the file of the learned District Munsif, Devakottai.

For Petitioner : Mr.S.Vellaichamy

For Respondents : Mr.M.Balakrishnan

ORDER

The above Civil Revision Petition has been filed challenging the dismissal of the petition filed by the plaintiff in I.A.No.23 of 21 in O.S.No.54 of 2019 on the file of the learned District Munsif, Devakottai to recognize the power agent of the plaintiff and allow him to conduct the case on her behalf.

2.The petitioner had stated that she was not keeping good health having undergone two consecutive surgeries and therefore, she sought permission of the Court to permit her power agent to adduce evidence on her behalf.

3.The said petition was vehemently opposed by the defendants stating that the power agent cannot adduce evidence on behalf of the principal and that apart, no documentary evidence had been filed to substantiate the reasons given in the affidavit, which is the subject matter of challenge before this Court.



4.The learned Judge after perusing the records and hearing the arguments on either side had dismissed the said application, as against which the plaintiff is before this Court as revision petitioner.

5.When the matter had come for admission on 09.12.2021, this Court had ordered notice to the respondents for the limited purpose of knowing whether the respondents would have any objections to the evidence of the petitioner being taken through an Advocate Commissioner. After service of notice, the respondents were represented by a counsel.

6.Today, when the matter had come up, a suggestion was put forward to the learned counsel appearing for the respondents. He had no objections to the same as it is his categorical case that the principal can only adduce evidence and not the power agent.

7.In these circumstances, the above Civil Revision Petition stands disposed of with a direction that it is the plaintiff, who shall adduce evidence and her evidence shall be recorded by an Advocate Commissioner, who shall be appointed by the Court below. Considering the fact that the petitioner had stated that she is suffering from physical incapacity on account of her surgeries, the defendants shall endeavour to finish the cross-examination at the earliest. The learned District Munsif, Devakottai, shall appoint an Advocate Commissioner, who shall proceed to note down the evidence of the plaintiff. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The District Munsif, Devakottai.

+1 CC to M/s.M.BALAKRISHNAN, Advocate (SR-40333[F] dated 23/12/2021)

+1 CC to M/s.S.VELLAICHAMY, Advocate (SR-40408[F] dated 27/12/2021)

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