



C.R.P.No.3662 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 3662 of 2023

and

C.M.P.No. 22956 of 2023

J. Ponnuraj

.. Petitioner

Vs

1.J.D. Premakumari Rosalind

2.The State of Tamilnadu,
Rep., by District Collector,
Tiruvannamalai.

3.The Revenue Divisional Officer,
Office of the Revenue Division Office, Arani,
Arani Town and Taluk,
Tiruvannamalai District.

4.The Divisional Revenue Officer,
Tiruvannamalai, Office of the
Divisional Revenue Office,
Collectorate, Vengikal,
Tiruvannamalai District.



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5. The State of Tamilnadu,
Represented by the Thasildhar,
Arani Taluk Office,
Arani Town & Taluk,
Tiruvannamalai District.

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.2 of 2023 in O.S.No.169 of 2009 dated 11.08.2023 by the learned District Munsif, Arani.

For Petitioner : Mr. M. Selvam

For Respondents : Mr. D. Johnraj, party-in-person (R1)
Mr. V. Jeevagiridharan, R2 to R4
Additional Government Pleader

ORDER

This Civil Revision Petition is filed challenging the impugned order passed in I.A. No. 2 of 2023 in O.S. No. 169 of 2009, the plaintiff has preferred this revision.

2. Before the trial Court, the plaintiff filed a suit for declaration and other consequential relief in respect of the suit property. In that suit, the second defendant is an individual and other defendants are the State / revenue authorities. All the defendants contesting the case before the Court.



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Now at the stage of recording the defendants' side evidence, the second defendant gave Power of Attorney. During the pendency of the proceeding, the plaintiff evidence was closed. For adducing defendant evidence, the second defendant filed an application in I.A. No. 2 of 2023 under Order 3 Rule 2 and Section 151 CPC permitting her to conduct the case through the special Power of Attorney which was given to her husband, Johnraj. That application was strongly objected by the plaintiff stating that he has no right to give evidence or to mark the documents on behalf of the wife and besides he has no knowledge about the nature of the property. Therefore, he raised objection.

3. On considering both submissions, the trial Judge held that as a husband, he is entitled to give evidence on behalf of the wife besides he might have known all the facts personally. Therefore, no prejudice would cause to examine him as a evidence on behalf of the second defendant, who is aged about 70 years old. Accordingly, application was allowed.



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4. Aggrieved by the same, the plaintiff has preferred this revision.

5. The learned counsel for the revision petitioner submits that he was the alleged Power of Attorney holder, husband of the second defendant was not aware of the family affairs since because the suit is pending between the plaintiff who is a close relative of the second defendant. Therefore, without considering the same, the trial Judge erroneously allowed the application.

6. The Power of Attorney holder appeared in-person for the first respondent / second defendant and submitted that now, his wife who is aged about more than 70 years old suffering from joint pain and all the years he was assisting her to maintaining the property and he was personally aware of the transfer of the patta proceeding and everything. So he is the right person to give the evidence and the same was rightly permitted by the trial Judge.



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7. Considering both the submissions and on perusal of the records, it reveals that the suit was filed in the year 2009 and now presently, the second defendant is aged about more than 70 years old and as per the submissions made by the Power of Attorney holder / her husband, he was aware of all the proceeding in respect of the suit property. Therefore, no prejudice would cause to the plaintiff to examine him as witness if at all he has no knowledge about the property. The plaintiff is entitled to put all the questions to the power holder with respect of his knowledge about the transaction in respect of the property. Therefore, examining him as a witness on behalf of the wife is permissible one. Accordingly, the trial Court finding is justifiable, which needs no interference.

8. In the result, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

9. Considering the age of the parties, the trial Judge is directed to dispose the case as expeditiously as possible within three months from the



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date of receipt of copy of this order. The learned Government Pleader who is appearing for the respondents 2 to 4 also directed to cooperate for the proceeding by appearing before the trial Court.

17.10.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

To
The District Munsif, Arani.



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T.V.THAMILSELVI, J.

AT

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