



C.R.P.(PD) No. 4006 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2023

CORAM:

THE HON'BLE Mr. JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD) No. 4006 of 2017

and

C.M.P. No. 18744 of 2017

1. K.Varadharajan
2. R.D.M.Kannan

... Petitioners

Vs.

1. M.Karthe
2. Ponnuvel
3. Annamalai
4. Marakkal
5. K.Selvam
6. K.Allimuthu
7. Poongodi
8. Periyathayee
9. Settu @ Nagaraj
10.Lakshmi
11.Ammal
12.P.Alamelu
13.Govindarajan
14.Vasanthi
15.Vellaiyammal
16.Rajeswari
17.P.Selvam
18.P.Krishnan
19.Rathinammal
20.Pappathi



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21.A.Selvam
22.Subramani
23.Palaniammal
24.Jayanthi
25.M.Deepa

...Respondents

Prayer:- Petition filed under Article 227 of the Constitution of India praying to allow the above C.R.P. by setting aside the petition and order dated 04.07.2017 passed in I.A.No. 310 of 2017 in O.S. No. 156 of 2017 on the file of the II Additional District Court, Salem.

For Petitioner : Mr. L.Mouli

For Respondents : Mr. M.R.Jothimanian (For R1)
R3 – died
RR 2, 4 to 24 – Served

O R D E R

The civil revision petition arises against an order passed by the II Additional District Judge at Salem in allowing the interlocutory application in I.A. No. 310 of 2017 in O.S. No. 156 of 2017. This petition was presented by the defendant nos. 1 to 24 and 33. The prayer was to permit the first petitioner therein, namely, the defendant no. 33 to represent defendant nos. 1 to 24 as their power of attorney. The deed of power of attorney dated 12.09.2011 in its original had been filed before this Court. The trial court was satisfied with the same and allowed the application.



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2. Mr. L.Mouli, learned counsel appearing for the petitioners would very vehemently argue that the order has no reason and further, one of the persons, who had executed the said power of attorney, viz., Kaliammal, had passed away three months before the date of filing the application in I.A. No. 310 of 2017, on 18.04.2017. According to him, on the death of the said Kaliammal, the power of attorney becomes invalid and therefore, the defendant nos. 1 to 24 are not entitled to be represented by defendant no. 33.

3. The power of attorney that had been executed is a joint and several one. Therefore, mere fact that one of the principals had passed away does not mean that the entire power of attorney has become invalid.

4. Apart from that, the learned Judge need not pass a detail order, as required under Order XX, for the purpose of allowing the application seeking representation through a power of attorney. The original power of attorney had been filed before the Court and the Court had satisfied itself with the same, therefore, it allowed the application. Furthermore, I am unable to understand as to how an opposite party would be aggrieved by the



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defendants giving the power to one of their co-defendants. It is not for the plaintiffs to dictate as to whom the defendants must engage or represent their matters. Such a defence is unknown to civil law.

5. Therefore, I am not convinced with the submissions made by Mr. L.Mouli. The civil revision petition deserves order of dismissal. Accordingly, it is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

6. The suit being of the year 2017, the learned trial Judge is requested to take up the matter and dispose of the same within 4 months from today.

04.07.2023

Maya

NCS : Yes/No

Index : Yes/No

To

1. The II Additional Judge,
Salem.



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V.LAKSHMINARANAN, J.

Maya

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