



C.R.P.No.4248 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.4248 of 2017
and C.M.P.No.19908 of 2017

Lelion Jacqueline

...

Petitioner

Vs

B.Sagayamarie

Representing by her Principal

Marie SuzellePascaline

...

Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the order dated 17.08.2017 made in I.A.No.1677 of 2016 in HRCOP.No.49 of 2014 on the file of the Rent Controller, Puducherry by allowing this Civil Revision Petition and to pass such further order or orders as it may deem fit and proper in the circumstances of the above case.

For Petitioner : Mr.P.Suresh

For Sole Respondent : Mr.V.K.Vijayaraghavan

ORDER

Page 1 of 5



C.R.P.No.4248 of 2017

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This Civil Revision Petition has been filed as against the order dated 17.08.2017 made in I.A.No.1677 of 2016 in HRCOP.No.49 of 2014 on the file of the Rent Controller, Puducherry, thereby allowing the petition to give evidence on behalf of the Principal.

2. The petitioner is a third party to the eviction petition filed by the landlord in R.C.O.P.No.49 of 2014, on the ground of wilfull default and owners occupation. Pending eviction petition, the Principal had executed a General Power of Attorney in favour of the respondent herein, in order to look after the eviction petition and also to adduce evidence on behalf of the Principal and the same was allowed. Aggrieved by the same, the present Civil Revision Petition.

3. The learned counsel for the petitioner would submit that the Power Agent cannot give evidence in respect of the matters which are within the special knowledge of the Principal and the tenant. The Power Agent cannot give evidence in respect of certain acts done by the Principal.



C.R.P.No.4248 of 2017

WEB COPY

4. A perusal of records revealed that the respondent was appointed as a Power Agent by her Principal, after filing the eviction petition, on the ground of wilfull default and owners occupation as against the petitioner herein. In pursuant to the execution of General Power of Attorney, the respondent filed a petition under Order III Rule 1 & 2 r/w Section of CPC, seeking for grant of leave to appear on behalf of the Principal and also to adduce evidence on behalf of the Principal.

5. It is settled law that the Power Agent cannot give evidence in respect of the matters which are within the special knowledge of the Principal. The Power Agent may depose on behalf of the Principal in respect of the Power of Attorney. He cannot depose for the Principal for the acts done by the Principal and not by the Power of Attorney holder. That apart, the Power of Attorney holder cannot depose for the Principal in respect of the matters of which the Principal alone can have personal knowledge and in respect of which the Principal is entitled to be cross-examined.



C.R.P.No.4248 of 2017

WEB COPY

6. Therefore, it is clarified that the respondent may depose as per the Power of Attorney and in support of the case of his Principal. Whereas, he/she cannot depose on behalf of the Principal and in the place of Principal.

7. In view of the above, this Civil Revision Petition is disposed of. Consequently, connected Miscellaneous petition is closed. No costs.

30.01.2023

mn

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

The Rent Controller, Puducherry.

G.K.ILANTHIRAIYAN.J,

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C.R.P.No.4248 of 2017

C.R.P.No.4248 of 2017
and C.M.P.No.19908 of 2017

30.01.2023

Page 5 of 5