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C.R.P.(PD).No.1509 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 12.04.2024

Coram

**THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN**

C.R.P.(PD).No.1509 of 2024 &  
C.M.P.No.8155 of 2024

P.Suresh Kumar

... Petitioner

-Versus-

Kanthabai

... Respondents

Civil Revision Petition under Article 227 of the Constitution of India against the fair and decretal order dated 18.01.2024 and made in I.A.No.29 of 2023 in RCOP.No.4 of 2011 on the file of Principal District Munsif, Chidambaram.

*For Petitioner : Mr.S.Balasubramanian*

**ORDER**

This civil revision petition arises against the order of the learned Principal District Munsif cum Rent Controller at Chidambaram in recognising the power agent of the landlord.

2. The RCOP is of the year 2011. Pending the litigation, the



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petitioner/landlord has granted power to her son, Nirmal Chand on 08.09.2023 as her power agent in order to continue the proceedings. Prior to this petition, she had appointed her other son, one Dinesh Kumar, as her power agent. He had contested the proceedings and subsequently, the said power was cancelled. Now she has appointed her other son, Mr.Nirmal Chand as the power agent, she took out an application under Order III Rule 1 of the Code of Civil Procedure seeking permission of the court to continue the proceedings through her power agent.

3. The objection to the said petition by the alleged tenant is that the power of attorney is not registered, but it is only notarised. Therefore, he would state that the application ought to be dismissed.

4. Taking into consideration the fact that the landlord has appointed a new power of attorney and has cancelled the power of attorney granted to the old agent, the learned judge allowed the application. Challenging the same, the present revision.

5. Mr.S.Balasubramanian would contend that the power of attorney is not



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a registered one and is only a notarised one and therefore, the court cannot rely

on it.

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6. This argument ignores Section 85 of the Indian Evidence Act. Under Section 85, the court is entitled to presume that the document, i.e., power of attorney, has been executed validly if it is notarised by a notary public. The presumption under Section 85 goes to the extent of presuming the execution as well as the authentication thereof.

7. More fundamentally, I asked Mr.S.Balasubramanian, as to what is the right of the tenant to challenge the act of the landlady in prosecuting the case through a power of attorney? The landlord is entitled to appoint any person as her power of attorney to contest the case and it is not open to the respondent/tenant to object to the same.

8. Mr.S.Balasubramanian states that his client is not a tenant as alleged but is a co-sharer.



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9. Whether the revision petitioner is a tenant or not can be gone into only at the time of trial. For the purpose of this case, the landlady wants to prosecute the case through her agent and the court below has rightly allowed the application.

10. As the law is in favour of the landlady, I am not inclined to interfere with the impugned order. However, taking into consideration that the RCOP has been pending since 2011, a direction is given to the learned Principal District Munsif cum Rent Controller, Chidambaram to take up the RCOP on a priority basis and dispose of the same within a period of six months from the date of receipt of a copy of this Order. The period of six months will not include the holidays in the month of May.

11. It is made clear that the rent controller has absolute discretion in case she feels that either the tenant or the landlord are trying to drag on the matter and to reject such requests for adjournment. She has to ensure that the proceedings are over on or before 30.11.2024, and should submit a report to this court. It is made clear that as the matter is pending for more than a decade, the learned Principal District Munsif, Chidambaram, should proceed with the case on a day to day basis and dispose of the matter.



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12. With the above directions, this civil revision petition is dismissed.

No costs. Consequently, the connected miscellaneous petition is closed.

12.04.2024

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Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order

To

The Principal District Munsif, Chidambaram.



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V.LAKSHMINARAYANAN, J.

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