



CRP..No.3732 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.3732 of 2024

Dinesh Prasanna.R

Rep by his Power of Attorney Holder

N.Rajakumar

.. Petitioner

Vs.

Ramya Hemant

.. Respondent

Prayer:- Civil Revision Petition filed under Section 227 of Constitution of India, to direct the Registry of the Family Court, Chennai to number the suit filed by the petitioner on 16.05.2024 in O.S.(SR).No.2734 of 2024 by allowing the power agent of the petitioner to take a return of the papers from the Registry and to represent the same before the Registry and to represent the petitioner in the proceedings before the Family Court, Chennai.

For Petitioner

: Mr.K.Selvekumar

ORDER

This petition has been filed seeking to direct the Registry of the Family Court, Chennai to number the suit filed by the petitioner on 16.05.2024 in O.S.(SR).No.2734 of 2024 by allowing the power agent of the petitioner to take a return of the papers from the Registry and to represent the same before the Registry and to represent the petitioner in the proceedings before



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the Family Court, Chennai.

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2. The case of the petitioner is that the petitioner is the father of one Dinesh Prasanna, who is an ordinary resident of Texas, United States of America. The said Dinesh Prasanna has obtained a decree of divorce as against the respondent/defendant before the 296th District Court, Collin County, Texas, USA in Cause Number:296-53667-2023 on 05.09.2023. Since the judgment of the divorce had been granted by the non-reciprocating territories such United States of America, his son had to file a suit before the Family Court, Chennai to declare the the final divorce as valid and binding on the plaintiff and the defendant. The suit was filed in person by the son of the petitioner on 16.05.2024, the suit was returned for certain compliance by the Principal Judge, Family Court, Chennai. On the next day, the petitioner's son had complied with the return and re-presented the suit. However, due to an urgent call from the employer, the petitioner's son had to rush to USA and before leaving India, he has executed a Special Power of Attorney in favour of the petitioner for filing and conducting Court Cases on behalf of him. When the petitioner had gone to the Court, he came to know that the plaint had been returned for certain compliance.



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When the petitioner had enquired the Registry with regard to the representation, he was not permitted by the Registry to take steps. The petitioner as a power of attorney to his son is entitled to pursue the same as per Order III Rules 1 and 2 of Code of Civil Procedure and while he has not been permitted, he has approached this Court.

3. The learned counsel for the petitioner would submit that the petitioner is none other than the father of Mr.Dinesh Prasanna, who has filed the suit personally. Dinesh Prasanna is an ordinary resident of USA, due to urgent call from his employer, he had rush back to USA and he was unable to re-present the plaint within the time. Despite the Special Power of Attorney, the Registry is neither returning the bundle nor permitting the petitioner to re-present the same. He would further submit that as per Order III Rule 1 and 2, there is no bar for the plaintiff to be represented through a power of attorney, thereby would seek to direct the Family Court, Chennai to let the power of attorney, who is none other than the father of Dinesh Prasanna to represent the suit on behalf of the plaintiff.

4. The learned counsel for the petitioner also submitted that along



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with the Power of Attorney, the petitioner has also filed an application under Order III Rule 1 and 2 seeking to permit him to represent his son Mr.Dinesh Prasanna in the suit and without any valid reason he has been prevented to pursue the case.

5. It is relevant to extract Order III Rules 1 and 2 of Code of Civil Procedure, which would read as follows:

*“ 1. **Appearances, etc., may be in person, by recognized agent or by pleader.**—Any appearance, application or act in or to any Court, required or authorized by law to be made or done by a party in such Court, may, except where otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by a pleader [appearing, applying or acting, as the case may be,] on his behalf:*

Provided that any such appearance shall, if the Court so directs, be made by the party in person.

*2. **Recognised agents.**—The recognised agents of parties by whom such appearances, applications and acts may be made or done are—*

(a) persons holding powers-of-attorney, authorising them to make and do such appearances, applications and acts on behalf of such parties;

(b) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorised to make and do such appearances, applications and acts.”

6. The above provisions makes it clear that Order III Rules 1 and 2 of



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CPC empowers the holder of power of attorney to "act" on behalf of the principal. Perusal of the typedset shows that the petitioner's son has executed a Special Power of Attorney for filing and conducting Court cases in favour of the petitioner herein and the petitioner is none other than father of the plaintiff.

7. In view of the above, the learned Principal Judge, Family Court, Chennai is directed to instruct its Registry to number the unnumbered suit in O.S.SR.No.2734 of 2024, if the requirements of Order VII rule 1 of Civil Procedure Code is complied with.

8. Accordingly, this petition is allowed. No costs.

11.09.2024

dhk

Index : Yes/No

Internet : Yes/No

To,

Principal Judge,
Family Court, Chennai

A.D.JAGADISH CHANDIRA, J.,



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