



WEB COPY



CRP (PD) No.3733 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.09.2024

CORAM

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

CRP (PD) No.3733 of 2024

Prabu Ananthan
Rep. By his Power Agent
Mr.P.Jayaraj

... Petitioner

Vs.

1. A.Kamali

2. Manikandan

... Respondents

Prayer: Civil Revision Petition filed under Article 226 of the Constitution of India praying to set aside the order passed by the learned Principal District Judge at Chengalpattu in I.A.No.4 of 2024 in O.S.No.164 of 2017 on 16.07.2024.

For Petitioner

:Mr.K.Selvakumar

For Respondents

: Mr.M.Nandakumar
for Mr.K.Ashok Kumar



CRP (PD) No.3733 of 2024

WEB COPY

ORDER

The Civil Revision Petition arises against the order passed by the learned Principal District Judge, Chengalpattu in I.A.No.4 of 2024 in O.S.No.164 of 2017 dated 16.07.2024.

2. The Civil Revision Petitioner is the plaintiff in the suit. He has filed O.S.No.164 of 2017 seeking for a declaration that the Settlement Deed executed by his mother viz., Mrs.A.Revathy in favour of the 1st defendant is null and void and for a declaration that he is the owner of the property and for recovery of possession from the defendants and for payment of damages of Rs.20,000/- per month towards use and occupation.

3. In the said suit, the defendants have been served, but they have remained *ex parte*. The suit is now at the stage of recording of the *ex parte* evidence. Even while presenting the plaint, the plaintiff has specifically pleaded in paragraph No.5 that he is a resident of United States of America and is employed therein. In order to give evidence in



CRP (PD) No.3733 of 2024

the suit, he appointed his father-in-law, as his power agent. The power of attorney is registered in Document No.35 of 2023 on the file of the District Registrar at Virugambakkam. On the strength of the Power of Attorney deed dated 20.02.2023, the power Agent i.e., the father-in-law of the Civil Revision Petitioner viz., Mr.Jayaraj filed a petition under Order III Rule 2 of the Code of Civil Procedure. The learned Judge dismissed the application on the ground that an agent cannot depose on the merits of the case with respect to the dispute. Hence, this revision.

4. The Civil Revision Petition came up for admission on 13.09.2024 and I requested Mr.K.Selvakumar to serve the notice on the respondent. Notice was served and Mr.M.Nanda Kumar representing Mr.Ashok Kumar opposes the revision.

5. Heard Mr.K.Selvakumar, learned counsel for the Revision Petitioner and Mr.M.Nanda Kumar, learned counsel for the respondent. I have gone through the records.

6. In terms of Order III Rule 1 of the Code of Civil Procedure, a party can appear through his duly recognised power agent. Under Order



CRP (PD) No.3733 of 2024

III Rule 2 of the Code, the recognised agent of a party is entitled to appear, file applications and act on behalf of such parties. In such an application, the respondents cannot have any objection. As to how a party wants to conduct the litigation, cannot be dictated by his adversary. The plaintiff in the present case wants to conduct the litigation through his power of agent viz., Mr.Jayaraj, his father-in-law. The defendants cannot object to the same.

7. The issue that has been dealt with by the Court that the power agent cannot speak about matters exclusively within the knowledge of the plaintiff, would arise, only after he has entered the witness box and he has deposed to that effect. In case, the power agent is going to depose only on the basis of the records, which are available with him and substantiate the case on that basis, the issue of exclusive knowledge of the plaintiff pales into insignificance.

8. However, having come to the conclusion that the plaintiff is entitled to prosecute the suit with the help of the power agent, I notice one lacuna in the said application. The Principal viz., Mr.Prabu Ananthan, has not filed an affidavit in the application nor has he filed an affidavit in



WEB COPY



CRP (PD) No.3733 of 2024

V.LAKSHMINARAYANAN, J.

ars

CRP (PD) No.3733 of 2024



WEB COPY



CRP (PD) No.3733 of 2024

27.09.2024