



C.R.P. (PD) .No.4454 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4454 of 2024

and

C.M.P.No.24833 of 2024

K.Thangavel

.. Petitioner

Vs.

1.K.Sakthivel

2.Assistant Executive Engineer,
Tamilnadu Electricity Board,
Somanur,
Coimbatore – 641 659.

.. Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the impugned order made in I.A.No.5 of 2022 in O.S.No.73 of 2022 dated 10.07.2023 on the file of the District Munsif Court, Sulur.

For Petitioner : Ms.Lakshmipriya Muthuramalingam



ORDER

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The civil revision petitioner is the plaintiff in the suit. The cause of action for the suit is that one Sakthivel objected to the transfer of electricity connection granted in favour of the plaintiff. Therefore, the plaintiff presented the suit for injunction seeking restraining the electricity board not to interfere with the right of the plaintiff by taking any action pursuant to the show cause notice dated 05.03.2022.

2.The said Sakthivel was not impleaded as a party to the suit though he is referred to in the pleadings. Therefore, the said Sakthivel filed an application to implead himself as 2nd defendant in the suit. Pending the said application, he took out an other application to appoint his father T.S.R.Khannaiyann to represent him in the proceedings. The application was received as I.A.No.5 of 2022 and notice was issued to the plaintiff. The plaintiff opposed the application stating that Sakthivel's father cannot be appointed as a power agent. The learned Judge did not agree with the plaintiff and allowed the application. Hence, this revision.



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3.I heard Ms.Lakshmipriya Muthuramalingam for the civil revision petitioner.

4.Ms.Lakshmipriya Muthuramalingam argues that the sale deed that had been executed in favour of Sakthivel is of the year 1998, whereas, the power of attorney was executed in the year 2021 and therefore, the father cannot depose the evidence on behalf of the son. This argument is based on the judgment of the Supreme Court in *Janki Vashdeo Bhojwani & Anr Vs. Indusind Bank Ltd. & Ors, AIR 2005 SC 439*. She relies upon the word “Acts” in a power of attorney to state that a power of attorney cannot depose on matters which are personal to the principal and on that ground, the order deserves to be set aside.

5.I have carefully considered the submissions of Ms.Lakshmipriya Muthuramalingam.

6.There is an ocean of difference between filing an application to implead as a party by an affidavit filed by a power of attorney and a power



agent entering the witness box and deposing on behalf of his principal. The power of attorney is not barred from deposing on behalf of his principal on matters which are within his knowledge. What is barred is that he cannot depose matters which are personal to the knowledge of the principal. The principle that Ms.Lakshmipriya Muthuramalingam wants me to apply does not apply to a situation where the power of attorney files an affidavit to implead his principal as a party to the suit. This is because the power of attorney merely acts on behalf of his principal when the interest of his principal are being affected. A perusal of the plaint in particular paragraph No.3 and paragraph No.6 discloses that the cause of action for the suit was on account of a complaint lodged by the said Sakthivel to the Electricity Authorities. In fairness, the plaintiff should have impleaded Sakthivel when he presented the suit. Yet he do not do so.

7.A petition filed under Order III Rule 2 of the Code of Civil Procedure, 1908 is a matter before the Court and a party. An adversary cannot state as to who her advisory should appoint as an agent. That is entirely a contract between the latter and his / her agent. To put it in simple, once the plaintiff has no right to object as to whom the defendant wants to appoint as a party



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and vice versa, the question of impugning an order permitting the power agent to act on behalf of his principal does not arise.

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8.In the light of the above discussion, I do not find any grounds to interfere with the order passed by the learned District Munsif, Sulur, in I.A.No.5 of 2022 dated 10.07.2023, despite the same is vehemently opposed by Ms.Lakshmipriya Muthuramalingam.

9.In the result, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

07.11.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

The District Munsif Court,
Sulur.



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V.LAKSHMINARAYANAN, J.

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