



C.R.P.No.4180 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2024

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THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.4180 of 2024

Arun Kumar Rajendra Kumar	...	Petitioner
-Vs-		
Vaishnavi Sridhar	...	Respondent

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to take OP.SR.No.4493 of 2024 that was returned on 21.08.2024 on the file of the Principal Judge, Family Court at Chennai through virtual mode through his duly authorised power

For Petitioner : Ms.K.Subashini Suresh
for M/s.Chennai Law Associates

ORDER

This Civil Revision Petition seeks for a direction to the Principal Judge, Family Court Chennai to number O.P.(SR) No.4493 of 2024. The said O.P., is filed through the Power of Attorney and to process the application further.

2. The petitioner is the husband. He entered into matrimony with the respondent on 01.06.2023 at Chennai. The same was registered on 02.06.2023.



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Alleging that he was meted out with acts of cruelty by the respondent wife, he filed a petition invoking Section 13(1)(ia) of the Hindu Marriage Act. As the petitioner is a software engineer employed abroad, he authorized his father to file an application on his behalf.

3. The learned Family Judge directed that the petition must be filed only by the petitioner and hence, returned the said application. The power agent represented the petition relying upon a judgment of this Court report in **Aishwarya Sridharan -vs- Harihara Venkataraman Balasubramanian (CDJ 2023 MHC 6480)** . The papers were yet returned stating that the previous returns have not been complied with. Hence this revision.

4. When the matter came up for admission, I called upon the counsel to produce the subject power of attorney said to have been executed by the son in favour of his father. The power of attorney was produced. I noticed that the said document did not empower the agent to present and prosecute petitions on behalf of the principal. The learned counsel took time to produce the power of attorney deed empowering the agent to file the petition and prosecute it.

5. Today, she has produced the power of attorney document executed at the office of the Sub Registrar, Anna Nagar in Document No.ADJ/AN/217/2024 dated 24.10.2024. A perusal of the power of attorney document shows that the



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petitioner, who is residing at Pennsylvania, USA has authorised his father to prosecute the petition before the Family Court. A reading of Clauses 2 to 4 shows that the petitioner has specifically empowered his father to continue with the proceedings. I also noticed that the power has been notarized by a Notary Public in Pennsylvania, which is the jurisdiction in which the Civil Revision Petitioner is residing. Therefore, it is clear that the father has been authorised to present the petition on behalf of the son.

6. As per Section 10(1) of the Family Courts Act, 1984, Code of Civil Procedure has been made applicable to the proceedings before the Family Court. The said provision deems a Family Court to be a Civil Court and has empowered the Family Court to have all the powers that have been vested with the Civil Court. If the Code of Civil Procedure applies to a proceedings under the Family Courts Act, the petitioner will be entitled to move an application under Order III Rule 1 of CPC and seek to be represented by a power agent. The power of attorney has been notarized and therefore it becomes valid and authenticated for the production before the Court in terms of Section 85 of the Indian Evidence Act.

7. The issue whether a power of attorney can present a petition on behalf of the principal has been settled by Mrs.Justice V.Bhavani Subbaroyan in **Aishwarya Sridharan -vs- Harihara Venkataraman Balasubramanian (CDJ 2023 MHC 6480)**. In addition, the Supreme Court in **Sarvesh Mathur v. The Registrar**



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General, High Court of Punjab and Haryana [Writ Petition(s) (Criminal) No(s).351/ 2023 dated 06.10.2023]

has directed that all Courts should adopt hybrid mode of adjudication. In fact, the Supreme Court in very clear terms, has laid down that there is no necessity for a party to obtain permission from the Court in order to appear before it utilizing the video conferencing mode. In the light of the clear and categorical position of law laid down by the Supreme Court and by Mrs.Justice V.Bhavani Subbaroyan of this Court, I am inclined to allow the revision.

8. The petition in O.P(SR) No.4493 of 2024 shall be re-presented along with a petition under Order III Rule 1 of CPC with an affidavit of the petitioner Mr.Arun Kumar Rajendra Kumar and a consent affidavit of the agent viz., Mr.S.Rajendra Kumar. The affidavit filed under Order III Rule 1 of CPC by the principal must state he is appointing his father as his power agent and the father must file an affidavit stating that he consents to be the power agent on behalf of his son before the Family Court. As appointment of power agent is a matter between the Court and the party, the Court shall allow the application under Order III Rule 1 of CPC after verification of the original Power of Attorney deed and the affidavits which have been mentioned above. Since in Sarvesh Mathur's case it was clearly held that a party need not file an application seeking for video conferencing, the Family Court shall not insist upon an application from the petitioner to appear before it via video conferencing.



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9. The Civil Revision Petition is allowed. No costs. There shall be a direction to the Principal Family Court, Chennai to receive OP (SR) No.4493 of 2024 together with the power of attorney deed dated 18.10.2024 and the two affidavits I have mentioned in the order and shall number the application, issue notice to the respondent and proceed further.

30.10.2024

Index : Yes/No
Neutral Citation : Yes/No
KST

Note: Original Petition filed along with the CRP shall be returned to the counsel for the petitioner after obtaining the usual endorsement.

To

The Principal Family Court
Chennai.



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V. LAKSHMINARAYANAN, J.

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