



C.R.P.(PD)No.4433 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.11.2024**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.4433 of 2024
and C.M.P.No.24698 of 2024

N.Gokula Rao

.. Petitioner

Vs

- 1.Janardhanan
- 2.Srinivasan
- 3.Udhaya
- 4.Nirmala
- 5.Priya
- 6.Vani
- 7.Prasanna
- 8.Mala
- 9.Renuka Devi
- 10.Anitha
- 11.Hari Prasad
- 12.Balakrishnan
- 13.Suryakumari
- 14.Aishwarya
- 15.Suganya



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16.Saranya

17.Indhumathi

18.Aparna

19.Jai

20.Venkatesh

21.Pushpakantha

22.Babu Pugazhendi

23.Logeswaran

24.Murugavel

25.E.Ramu

26.E.Ethiraj

27. Sub-Registrar, Chennai,
North Joint 1, No.1,
Moorthykal Lane,
Chennai-600 001.

28.Sub Registrar,
Sri Perumbudur Road,
Walajabad – 631 605.

29. The District Collector Chennai,
62, Rajaji salai, Fourth floor,
Chennai, Tamil Nadu – 600 001.

30. The District Collector Kanchipuram,
The District Collector, First Floor,
Collectorate, Kanchipuram-631 501.

.. Respondents

(R3 to R30 respondents/defendants herein
were set exparte before the trial Court)



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PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the impugned order dated 19.10.2024 passed in I.A.No.7 of 2024 in O.S.No.162 of 2020 on the file of the Additional Subordinate Court at Kanchipuram.

For Petitioner : Mr.N.Gokula Rao, party-in-person

For RR 27 to 30 : Mr.R.Siddharth, Govt. Advocate

ORDER

This civil revision petition arises against the order passed by the learned II Additional Subordinate Judge at Kancheepuram in I.A.No.7 of 2024 in O.S.No.162 of 2020 dated 19.10.2024.

2. O.S.No.162 of 2020 has been preferred by the civil revision petitioner seeking for the relief of declaration and for consequential reliefs. The respondents 1 & 2 are the defendants 1 & 2 in the suit. On account of the fact that the defendants 1 & 2 are not in a position to appear in person and depose before the Court due to old age and sickness, they appointed one Mr.S.Mahesh Kumar as their power of attorney. Mr.S.Mahesh Kumar, in exercise of the power, filed an



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application under Order III Rule 2 of the Code of Civil Procedure to permit him to represent his father, the 2nd defendant as the power of attorney and also to file a proof affidavit on his behalf. This application was numbered as I.A.No.7 of 2024.

3. The learned Judge ordered notice to the civil revision petitioner/plaintiff and allowed the application. Hence, this revision.

4. Heard Mr.N.Gokula Rao, the civil revision petitioner/party-in-person.

5. Mr.N. Gokula Rao urges that the power of attorney is not aware of the facts and circumstances of the case and therefore, the power of attorney should not be permitted to represent the respondents. He further urges that though the suit is of the year 2020, the application came to be filed only in 2024 and hence, it ought not to be allowed. He relies upon the judgment of the Supreme Court in ***Janki Vashdeo Bhojwani v. Indusind Bank Ltd., 2005 (2) SCC 217*** to press home this point.



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6. I have carefully considered the submissions of Mr.N.Gokula Rao, the party-in-person.

7. In terms of Order III of the Code of Civil Procedure, it permits a party to be represented by his power of attorney to conduct the matter on his behalf.

8. The respondents 1 & 2 have entered appearance and have filed a detailed written statement. As to whom the defendant wants to appoint his power of attorney cannot be dictated by the plaintiff. It is entirely within the discretion of the defendants, to appoint a person to represent them, in a proceeding. Order III of the C.P.C. proceeding is entirely between the Court and the party.

9. With respect to the submission on delay, it has to be pointed out that the defendants 1 & 2, not being in a position to appear before the Court on account of their sickness and age and wanted to appoint their power of attorney to depose on their behalf, when the matter was listed for evidence.



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10. Though the suit is of the year 2020, it has come up for evidence of the defendants only in 2024. At that stage, the respondents could have filed a petition under Order III of the C.P.C. Therefore, I do not find the delay as a ground to reject the petition.

11. With respect to the plea that the power of attorney is not in a position to speak about the nature of the documents, it is for the plaintiff to take advantage of the same at the time of examination. If the power of attorney is not aware of the facts or is not in a position to depose on certain aspects, it will certainly be advantageous to the plaintiff. On that ground too, I cannot reject a power of attorney's petition.

12. In the light of the above discussions, the civil revision petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

04.11.2024

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

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To
WEB COPY

1. The Additional Subordinate Judge at Kanchipuram.

2. Sub-Registrar,
North Joint 1, No.1,
Moorthykal Lane,
Chennai-600 001.

3. Sub-Registrar,
Sri Perumbudur Road,
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4. The District Collector Chennai,
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V. LAKSHMINARAYANAN,J.

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