



C.R.P.No.4970 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4970 of 2024 &
CMP.No.27962 of 2024

M.Annamalai

.. Petitioner

Versus

1.P.Kullammal,
Represented by her son Power of Attorney,
P.Arumugam

2.Kolandhaimmal

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 23.07.2024 of fair and decreetal order was made in I.A.No.2 of 2023 in O.S.No.386 of 2020 on the file of the I Additional District Munsif, Salem.

For Petitioner : Ms.S.Sasikala

ORDER

The revision challenges the order of the learned I Additional District Munsif, Salem in I.A.No.2of 2023 in O.S.No.386 of 2020 dated 23.07.2024.



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2. By an application in I.A.No.2 of 2023, the plaintiff pleaded that the court should recognise her son to represent her as a power of attorney agent. She pleaded that she is aged and unable to come to court, and therefore, she appointed her son, Arumugam, to represent her in the suit.

3. The learned Trial Judge allowed the application. Hence, the revision is at the instance of the first defendant.

4. Ms.Sasikala argues that the plaintiff is hale and healthy and the cross examination is over in part. On account of her absence, her son was examined as a witness and the evidence was closed. Thereafter, another witness was examined as PW3 and her evidence was also closed. She pleads that the suit is posted for evidence of the defendant. At this stage, in order to protract the proceedings, the plaintiff has filed this application. She states that the learned Judge has erroneously allowed the application and hence, she seeks the order to be revised.

5. I am unable to accept the contention of Ms.Sasikala. Appointment of a power of attorney under Order III of the Code of Civil Procedure is



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entirely to prerogative of the party. If the power of attorney satisfies the requirements of law, the court can recognise the same. It is not for the defendant to dictate as to who the plaintiff should appoint as her power agent. It is entirely a contract between the plaintiff and her agent.

6. If I were to accept the plea of Ms.Sasikala, then it will lead to a situation where the plaintiff can dictate to the defendant as to who he should engage, as the vakalatnama given by the party to a counsel, is a species of power of attorney. I am not willing to lay down such startling proposition of law. The mother, being aged, she has appointed her son as agent. The son has also deposed in evidence. Therefore, the question of revising an order in a matter which is entirely between the court and party, at the instance of the adversary, is unknown. This civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no



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The I Additional District Munsif, Salem.



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V.LAKSHMINARAYANAN, J.

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