



C.R.P.(MD)No.83 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.83 of 2024

and

C.M.P.(MD)No.409 of 2024

Ravirooban

... Revision Petitioner / Petitioner

Vs.

1.S.S.P.Anbalagan

... 1st Respondent / 1st Respondent/
Plaintiff

2.The Sub Registrar

Vilathikulam Sub Registrar Office,
Vilathikulam, Thoothukudi District.

3.The District Registrar

District Registrar Office,
Thoothukudi District.

4.The District Collector

Collectorate, Korampallam,
Thoothukudi District.

...Respondents 2 to 4/Respondents 2 to 4/
Defendants 2 to 4

PRAYER : Civil Revision Petition is filed under Article 227 of
Constitution of India, to call for the records and set aside the order dated



C.R.P.(MD)No.83 of 2024

01.09.2023 passed by the learned District Munsif cum Judicial Magistrate Vilathikulam, in I.A.No. 2 of 2022 in O.S.No.9 of 2022 and allow this Civil Revision Petition.

For Petitioner : Mr.V.Chandrapandi

ORDER

This petition has been filed challenging the order dated 01.09.2023 passed by the learned District Munsif cum Judicial Magistrate Vilathikulam, in I.A.No. 2 of 2022 in O.S.No.9 of 2022.

2.The father of this petitioner namely Maria Selva Rathinam is the defendant in O.S.No.9 of 2022 filed by the first respondent herein namely S.S.P.Anbalagan. The suit was filed by him seeking declaration to declare the cancellation of the power deed executed by the father of this petitioner on 30.11.2017 is null and void.

3.Pending the trial process a petition was taken up by this petitioner stating that he is going to contest the case as power of attorney on behalf of his father in I.A.No.2 of 2022, that came to be dismissed by the trial Court stating that in view of the judgment of the Honourable



C.R.P.(MD)No.83 of 2024

Supreme Court in the case of *Man Kaur V. Hartar Singh Sanga* made in

C.A.No.147 – 148 of 2001 it is not maintainable. No doubt that a party can depose the facts which are exclusively within his knowledge and not by the power of attorney. To that point the learned counsel for the petitioner would submit that the father of the petitioner is ready to appear before the trial Court at the time of giving evidences. Now it is posted for framing of issues. His father is ready to give evidence and the power of attorney will not be permitted to take up his evidence before the trial Court, since only objection that has been raised by the respondent is that the power of attorney cannot depose with regard to the facts, which are not within his knowledge. In view of the above said undertaking given by this petitioner, I am of the considered view that this petition is liable to be allowed.

4. Accordingly the impugned order passed by the learned District Munsif, Vilathikulam in I.A.No.2 of 2022 in O.S.No.9 of 2022 is hereby set aside. The father of the petitioner shall file an undertaking affidavit before the trial Court to the effect that he will appear for giving evidence.



C.R.P.(MD)No.83 of 2024

5. With the above said directions, this civil revision petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

12.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

1. The District Munsif cum Judicial Magistrate,
Vilathikulam.

2. The Sub Registrar
Vilathikulam Sub Registrar Office,
Vilathikulam, Thoothukudi District.

3. The District Registrar
District Registrar Office,
Thoothukudi District.

4. The District Collector
Collectorate, Korampallam,
Thoothukudi District.

5. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(MD)No.83 of 2024

G.ILANGO VAN,J.

TM

C.R.P.(MD)No.83 of 2024

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