



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-06-2025

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**THE HONOURABLE MR.JUSTICE P.B. BALAJI**

**CRP No.2089 of 2023**

**and CMP. No.12807 of 2023**

S.Muralidhara

Petitioner(s)

Vs

Srinivas

Respondent(s)

**PRAYER:** This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside fair and decreetal order in I.A. No.1 of 2021 in O.S. No.228 of 2021 (O.S. No.185 of 2017 Sub Court, Hosur) on the file of the Subordinate Judge, Denkanikottai.

**For Petitioner(s) : Mr.R.Ezhilarasan**

**For Respondent(s): Ms.S.B.Madhura**  
for Mr.R.Bharathkumar

**ORDER**

The revision is directed against the order of refusal to permit the petitioner/plaintiff to be represented by his brother passed in I.A. No.1 of 2021 in O.S. No.228 of 2021.

2. Heard Mr.R.Ezhilarasan, learned counsel for the petitioner and Ms.S.B.Madhura, learned counsel for Mr.R.Bharathkumar, learned counsel for the respondent.

3. The learned counsel for the petitioner submit that the petitioner is



suffering from neurological disorder (Rheumatic) and he is not in a position to attend the Court. He would further submit that the power agent is non else than his brother; he is also beneficiary under the Settlement Deed executed by the paternal grandmother of the petitioner and his brother and therefore, according to the learned counsel for the petitioner, the petitioner's brother is personally aware of the facts and he is the competent person to represent the plaintiff.

4. Per contra, the learned counsel for the respondent, Ms.S.B.Madhura, would state that the brother cannot speak for and on behalf of the plaintiff who has come to Court on a specific cause of action which is post the settlement deed conferring right on the petitioner and his brother. He would further state that the medical certificate produced on the side of the petitioner/plaintiff was found to be insufficient by the Trial Court, rightly, since it states that the disorder was invited by the petitioner himself due to alcohol abuse. She would therefore state that there is no infirmity in the order passed by the Trial Court dismissing the Application, appointing the petitioner's brother as Power Agent.

5. In fact, the learned counsel for the respondent would also give an option to the petitioner/plaintiff to have the plaintiff examined by an

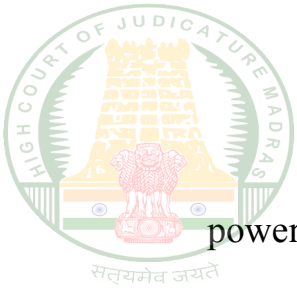


Advocate Commissioner at his residence. However, the learned counsel for the petitioner states that he is not willing to such a course suggested by the learned counsel for the respondent.

6. Considering the arguments advanced by the learned counsel on either side, it is needless to state that as the plaintiff who has the burden to establish his case put before the Court, the plaintiff has to necessarily adduce satisfactory evidence, oral and documentary. However, the plaintiff himself has chosen to appoint a third person, his brother to speak on his behalf, the Evidentiary value of the witness who would speak on behalf of the petitioner/plaintiff can always be put to test by the respondent, by taking advantage of 'adverse inference' and impress upon the Court, the effect of non examination of the petitioner/plaintiff as a witness, especially having come to Court. At the same time, the petitioner/plaintiff has expressed his inability to come to Court to give evidence and as indicated that he does not want to enter the witness box and give evidence. As *dominus litus*, it is open to the petitioner/plaintiff to undertake a risk and consequences.

**P.B.BALAJI, J.,**

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7. Therefore, the Revision is ***allowed*** and the petitioner's brother as power agent, shall be permitted to lead evidence, oral and documentary on behalf of the petitioner/plaintiff, subject to the right conferred on the respondent/defendant to raise the issue of 'adverse inference' in his favour. Considering the fact that the suit was originally filed in the year 2017, a direction is issued to the Trial Court to dispose of the suit on or before 31.10.2025. Connected Miscellaneous Petition is closed. No costs.

**18.06.2025**

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To  
The Sub Judge,  
Denkanikottai

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