



CRP No.3491 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-12-2025

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CORAM :

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

C.R.P.No.3491 of 2023

and

CMP No.21725 of 2023

Vs

1. K. Munuswamy

2.M.Venkatesan

3.Sri Vani

4.Viswanathan

...Respondents/Petitioners/
Defendants

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the Order dated August 17, 2023 made in I.A.No.16707 of 2017 in O.S.No.5290 of 2014 on the file of V Assistant Judge, City Civil Court, Chennai.



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For Petitioner Mr.R.Mariappan
:

For died
Respondent-1
:

For Mr.A.Sathish
Respondents-2 to for
4 : Mr.M.L.Ramesh

ORDER

The Revision Petitioner herein is the Plaintiff and the Respondents herein are the Defendants in O.S.No.5290 of 2014 on the file of 'the V Assistant City Civil Court, Chennai' (hereinafter referred to as the 'Trial Court'). The Plaintiff filed the aforesaid Suit under Order VII Rule I of the Code of Civil Procedure, 1908, ('CPC' for short) seeking permanent injunction and other relief.

2. The Revision Petitioner's son - J.Yegneshwaran and the first Defendant's daughter - Mogana are husband and wife and their marriage was solemnized on December 05, 2012. Due to some dispute arose between them, Mogana filed HMOP.No.1963 of 2014 seeking divorce, which is pending. In these circumstances, the Defendants executed a power

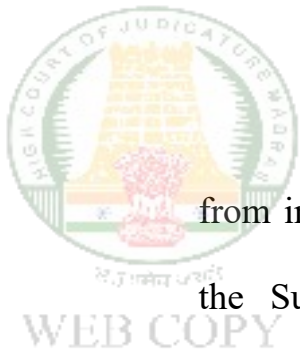


of attorney deed in favour of Mogana to conduct the case filed by her father-in-law – Jagadeesan. Pursuant to the same, the Defendants filed an Interlocutory Application in I.A.No.16707 of 2017 under Order III Rules 1 & 2 read with Rules 16 and 17 of Civil Rules of Practice and Section 151 of CPC praying to recognise Mogana as power agent of the defendants to conduct the case and adduce evidence on their behalf.

3. The Trial Court after hearing both sides allowed the petition.

4. Feeling aggrieved by the same, the Plaintiff has preferred this Civil Revision Petition.

5. Learned Counsel for the Revision Petitioner / Plaintiff submits that the alleged power agent is none other than the daughter-in-law of the Plaintiff. There is some matrimonial dispute between the alleged power agent and the Plaintiff's son. On the strength of the residential order obtained by the alleged power agent from the Court, she is in shared household with the Plaintiff's family. Taking advantage of the residential order, the Defendants attempted to trespass into the Suit Property and cause disturbance to the Plaintiff's family members. Hence, the Plaintiff filed the Suit against the Defendants seeking permanent injunction restraining them



from interfering with the Plaintiff's peaceful possession and enjoyment of the Suit Property. The alleged power agent will not represent the Defendants in a fair manner. In the Suit, trial commenced and the evidence of P.W-1 is completed. In order to avoid to enter into the witness box, the Defendants have filed this petition. The Trial Court without considering the relationship between the parties and without analysing the facts and circumstances of this case in the right perspective, erroneously allowed the petition. Accordingly, he prays to allow the Civil Revision Petition, set aside the Order passed by the Trial Court and dismiss the Interlocutory Application.

6. Per contra, Learned Counsel for the Respondents 2 to 4 / Defendants 2 to 4 submits that the Defendants are entitled to appear and contest the Suit through their recognised agent. The Plaintiff has no *locus standi* to oppose / resist the petition. The power agent who is none other than the daughter-in-law of the Plaintiff and has personal knowledge about the case. Hence, she is entitled to conduct and give evidence on behalf of the defendants. The Trial Court rightly appreciated the said facts and allowed the Interlocutory Application. There is no warrant to interfere with the same. Accordingly, he prays to dismiss the Civil Revision Petition.



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7. This Court has perused the Order passed by the Trial Court in I.A.No.16707 of 2017.

8. It is settled law that under Order III Rules 1 and 2 of CPC, the Court may recognise a power agent and the parties to the Suit may be permitted to conduct the case through the recognised agent. In the present case, the power agent is none other than the daughter-in-law of the Plaintiff and daughter of the first Defendant. Therefore, the Defendants are entitled to conduct the proceedings through their power agent. However, it is also well settled legal position that the power agent may conduct the proceedings, but the power agent cannot depose on behalf of the defendant, while nothing prevents the power agent to depose about his / her direct and personal knowledge about the case.

8.1. In support of his arguments, he would rely on a judgment of the Hon'ble Supreme Court in ***Janki Vashdeo Bhojwani -vs- Indusind Bank Ltd.*** reported in ***(2005) 2 SCC 217***, wherein it has been held that a power of attorney holder cannot depose on behalf of the principal in respect of the acts done by the principal, unless the power of attorney holder has direct and personal knowledge of the transaction.



9. In view of the facts and circumstances of the case, this Court does not find any illegality or irregularity in the Trial Court allowing I.A.No.16707 of 2017, recognising Mogana as the power agent of the Defendants to conduct and contest the case in O.S.No.5290 of 2014, to the extent permitted by law as stated *supra*. Therefore, this Court finds no merit in the present Civil Revision Petition, and the same is dismissed. Considering the facts and circumstances, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

pvs
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

The V Assistant Judge
City Civil Court
Chennai.



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