



C.R..P.(PD)(MD).No.1664 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1664 of 2021

and

C.M.P.(MD)No.8997 of 2021

Thirugnanam

...Petitioner

Vs.

Dhanasamy

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 30.03.2021 in I.A.No. 135 of 2020 in O.S.No.243 of 2012 passed by the Principal Subordinate Court, Pudukkottai.

For Petitioner : Mr.R.Paranjothi

For Respondent : Mr.J.Alaguram Jothi

ORDER

This Civil Revision Petition is filed challenging the fair and decreetal order dated 30.03.2021 in I.A.No.135 of 2020.



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2.The petitioner is the plaintiff in the suit in O.S.No.243 of 2012 for specific performance as against the respondent. He appointed one Ramanathan as his power agent to conduct the case by obtaining permission from the trial Court under Order 3 Rule 2 of CPC. Thereafter, the power of attorney was examined as P.W.1. Subsequently, the petitioner examined himself as P.W.2. Thereby, the respondent filed an application under Section 151 of CPC to strike down the evidence in chief of P.W.2. The said application was allowed. Challenging the same, the present Civil Revision petition is filed.

3.The learned counsel for the petitioner would submit that the trial Court without assigning any reasons, has allowed the application of the respondent seeking to strike down the evidence of the petitioner as P.W.2, only on the ground that when the power agent is examined with regard to the matter, the principal of the power agent cannot be allowed to give evidence once again. It is also observed that the petitioner/P.W.2 might answer to fill up the lacunae. Such finding rendered by the trial Court is not sustainable.



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4.He would further submit that the suit was filed by the petitioner/plaintiff for specific performance. Examining himself to prove his case, would cause no prejudice to the respondent. Further, in the present case, necessary ingredients for the suit for specific performance have been established by the plaintiff by adducing proper evidence and documents. Thereby, striking off the chief examination of P.W.2 is not sustainable. Accordingly, he prays for appropriate orders.

5.Per contra, the learned counsel for the respondent submits that admittedly, the petitioner being the beneficiary of the agreement holder filed a suit for specific performance through his power agent by obtaining necessary permission before the trial Court. The said power agent was examined as P.W.1 in chief and cross examination was also completed. When the entire evidence of P.W.1 is only on behalf of P.W.2, the principal/agreement holder/petitioner cannot examine himself again as P.W.2.

6.Heard the learned counsel appearing on either side and perused the materials placed on record.



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7.The facts in the present case are not in dispute. Admittedly, petitioner/P.W.2 is the agreement holder. He filed a suit for specific performance. P.W.1 was appointed as power agent to conduct the case by obtaining necessary permission from the trial Court under Order 3 Rule 2 of CPC. The defendant also cross examined P.W.1. Subsequently, the agreement holder/petitioner examined himself as one of the witnesses.

8.There is no express bar under the Code restricting the principal to be examined as witness even after his power agent is examined on his behalf. In the absence of any express bar to examine the agreement holder as one of the witnesses, the prayer to strike down the evidence of the principal is not sustainable. It is to be noted that the power agent cannot depose for the principal in respect of a matter, as regards which, only the principal can have personal knowledge and the principal is entitled to be cross-examined. Further, no prejudice would be caused to the respondent by examining the petitioner as P.W.2. If at all he has any dispute over the evidence of the petitioner, he shall cross-examine the agreement holder.



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9.In view of the above, the order passed by the trial Court in I.A.No. 135 of 2000 dated 30.03.2021 is set aside and this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

23.06.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Principal Sub Court, Pudukkottai.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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