



C.R..P.(PD)(MD).No.2884 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.2884 of 2024

and

C.M.P(MD) No.16490 of 2024

1. Thiyagaraj

2. Chinnammal

... Petitioners/
Respondents/Defendants

Vs.

Arukkani

... Respondent/Petitioner/
Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, against the order and decretal order dated 26.09.2024 in I.A.No.2 of 2024 in O.S.No.37 of 2022 on the file of the Principal District Munsif Court, Karur.

For Petitioners : Mr.S.Satheesh Kumar

For Respondent : Mr.A.Arul Jenifer
for Mr.J.Sathiaraj



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ORDER

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The defendants in O.S.No.37 of 2022 on the file of the Principal District Munsif Court, Karur, has filed the present Civil Revision Petition, challenging the order of the trial Court, wherein, the plaintiff's daughter has been permitted to represent of her mother (plaintiff) and to examine herself on behalf of her mother.

2. A perusal of the records reveal that the suit has been filed for the relief of declaration of title and permanent injunction. When the suit was posted for examination of plaintiff, the present application has been filed. The said application has been allowed by the trial Court on the ground that the plaintiff is bed ridden and the daughter of the plaintiff is well acquainted with the facts of the case. This order is under challenge in the present Civil Revision Petition.

3. According to the learned counsel appearing for revision petitioners, the plaintiff is hale and healthy and she is working on a day to day basis. In such circumstances, without any medical records, the trial Court ought not have allowed such an application.



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4. Per contra, the learned counsel appearing for the respondent/plaintiff contends that the plaintiff is a heart patient and she is taking treatment and therefore, her daughter has been rightly permitted by the trial Court to depose on behalf of the plaintiff.

5. The learned counsel for the petitioners has also produced certain medical records to show that the plaintiff is a heart patient. However, a perusal of the medical records would show that they relate to the year 2016 and there are no reasons as to why the recent records have not been produced.

6. Considering the fact that the plaintiff is aged about 74 years and she is having heart ailment, this Court is of the considered opinion that the plaintiff could be examined through Advocate Commissioner. The trial Court is directed to appoint an Advocate Commissioner to examine the plaintiff at her home. At the time of examination, the defendants as well as their counsel shall be permitted to be present with Advocate Commissioner. In case, if the plaintiff wishes to examine her daughter as one of the witnesses, it is left open to her.



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7. With the above said observation, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

13.03.2025

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

1. The Principal District Munsif Court,
Karur.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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