



WEB COPY

CRP No. 1878 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**CRP No. 1878 of 2024 and
CMP No.9862 of 2024**

Sandirasegarane Alibert
S/o.Ramalingame Alibert, No.89, Mariamman Koil
Street, Morisaan Thottam, Reddiarpalayam,
Puducherry 605 010.

..Petitioner(s)

Vs

Counapouchany Alibert(died)

1. 1.S.Ajagoussegarne
S/o.soubramanien, No.9, Palathu Street,
Muthamizh Nagar, Kosapalayam,
Puducherry 13.
2. Vilasini
W/o.Agilan Sattiavelou, D/o.Ajagoussegarane,
4, Rue Paul Cezanne, 92290 Chatenay malabry,
France.
3. Hemapragash
S/o.Ajagoussegarane, No.9, Palathu Street,
Muthamizh Nagar, Kosapalayam,
Puducherry 13.
4. Kanagajothi
W/o.Adynamousedouvelou,
D/o.Ajagoussegaran, 17, Rue Rosa Parks,
94400 Vity Sur Seine, France.
5. Gnanasegaran Aliberty,
S/o.Ramalingame Alibert, 48, Rue Louis
Duclos 69120 Vaulx En Velin, France.



6. Abiramy Alibert
W/o.Varadaji, villanur Road, Komkabbampet,
Kombakkam, Puducherry.
7. Vissalatchy Alibert
D/o.Ramalingame Alibert, Plot No.6, 7th Cross,
Kamban Nagar, Reddiyarpalayam, Puducherry.
8. Sarasvathy Alibert
W/o.Arumugam, Plot No.6, 7th Cross, Kamban
Nagar, Reddiyarpalayam, Puducherry.
9. Komathy Alibert,
W/o.Amalaraj, Plot No.8, 4th Cross, Kamban
Nagar, Reddiyarpalayam, Puduchery.
- 10.Rajasekaran Alibert
S/o.Ramalingame Aliberty, 2 Bis Rue Du
Moulin Blanchard, 92220 Bagneux Frace.
- 11.Gounasekaran Alibert
S/o.Ramalingame, No.131, Villianur Road,
Reddiyarpalayam, Puducherry 605 010.

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order dated 21.08.2023 passed in O.S.No.77/2018 by the learned Principal District Judge, Pondicherry by allowing this revision petition

For Petitioner(s): Mr. T.S.Baskaran

For Respondent(s): Mr. D. Ravichander



ORDER

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This Civil Revision Petition has been filed challenging the order passed by the Trial Court, allowing the plaintiffs to examine the 4th plaintiff as a witness, after examination of power of attorney of the plaintiffs as PW1, by over ruling the objection raised by the petitioner/ first defendant.

2. The respondents 1 to 4 herein/plaintiffs filed a suit in O.S.No.77 of 2018 seeking partition and separate possession of the property against the petitioner/ 1st defendant and other defendants. The trial in the suit has been commenced and the Power of Attorney of the plaintiffs was examined as PW1. Thereafter, the plaintiffs wanted to examine the 4th plaintiff as PW2 and his proof affidavit was filed. The said proof affidavit filed by the 4th plaintiff was objected to by the petitioner/1st defendant on the ground that after examination of power of attorney of the plaintiffs as PW1, one of the plaintiffs cannot be examined as a witness. The trial court overruled the objection raised by the petitioner and allowed the 4th plaintiff to examine himself as PW2. Aggrieved by the same, the petitioner/1st defendant has come before this court.

3. The learned counsel for the petitioner would submit that in order to withdraw the admissions made by the power of attorney during his cross examination, the plaintiffs wanted to examine the 4th plaintiff as PW2 and the same is not permissible in law.



4. It is seen from the typed set of papers that the 4th plaintiff was in France, when the power of attorney was examined as PW1 and now he returned to India. It is settled law that the power of attorney is not entitled to give evidence in respect of the facts, which are within the personal knowledge of the principal. In the case on hand, the power of attorney was already examined as a witness and he cannot be treated as a third party. The defendants cannot object to the rights of plaintiffs to examine any one of the plaintiffs as one of the witnesses on their behalf. If there is any inconsistency in the evidence of PW1 and PW2, it is always open to the petitioner to point out the same before the Trial court at the time of final disposal and argue about its impact on final outcome of the suit. Therefore, allowing examination of one of the plaintiffs as a witness will not cause any prejudice to the petitioner/1st defendant. Hence, I do not find any error in the impugned order passed by the Trial Court.

5. The learned counsel for the petitioner brought to the notice of this court that the evidence of PW2 was already closed, without cross examination of petitioner. Therefore, the petitioner may be permitted to cross examine the PW2. The petitioner, as an opposite party, is entitled to cross examine the PW2. Therefore, the Trial Court is directed to reopen the case and afford opportunity to the petitioner to cross examine the PW2.



6. With the above clarification, this civil revision petition is dismissed.

There shall be no order as to costs. Connected miscellaneous petition is closed.

23-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MST

To

The Principal District Judge, Pondicherry.



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S.SOUNTHAR, J.

MST

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