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C.R.P.No.4708 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.02.2026

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.4708 of 2025
and CMP.No.23795 of 2025

1.K.Malleeswari
2.Dhanalakshmi
3.Jayapriya

... Petitioners

vs.

Dhanalakshmi

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 13.08.2025 passed in I.A.No.10 of 2025 in O.S.No.47 of 2020 on the file of the Additional District Munsif Court, Tiruvallur.

For Petitioners : Mr.K.Manimaran

For Respondent :Mr.A.Muthukumar

ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court, allowing the application filed by the respondent, seeking permission of the Court to examine her husband as a witness.



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2. The petitioners herein filed a suit for bare injunction against the respondent. The respondent filed a written statement and has been contesting the suit. Earlier, the respondent filed an application in I.A.No.9 of 2025 under Order III Rule 2 of CPC, seeking leave of the Court to permit her husband to represent her as power agent. The said application was dismissed by the trial Court with an observation that the respondent has the option of recording evidence by other modes. Thereafter, the instant application has been filed by the respondent under Section 126 of Bharatiya Sakshya Adhiniyam r/w 120 of Indian Evidence Act, seeking leave of the Court to examine her husband as a witness. The said application was allowed by the trial Court and aggrieved by the same, the petitioners have come before this Court.

3. The learned counsel appearing for the petitioners would vehemently contend that when the earlier application filed by the respondent in I.A.No.9 of 2025 has been dismissed, the respondent is not entitled to file another application with the same prayer. Therefore, according to him, the trial Court committed serious error in allowing the said application. The learned counsel further submitted that the respondent has not substantiated her plea



of illness. Therefore, the application filed by her ought to have been dismissed.

4. A perusal of the typed set of papers would indicate that the earlier application was filed by the respondent under Order III Rule 2 of CPC, seeking permission of the Court to permit her husband to represent her as power agent in the proceedings. The said application was dismissed. However, in the dismissal order itself, the trial Court observed that the respondent has other modes of adducing evidence. Now the present application has been filed under Section 126 of Bharatiya Sakshya Adhiniyam, seeking permission of the Court to examine her husband as a witness. In the present application, the respondent is not seeking any permission to get herself represented by her husband in the legal proceedings and she only seeks permission to examine him as a witness. Therefore, this court is of the opinion that this application is entirely different from the scope of the earlier application. Section 126 of Bharatiya Sakshya Adhiniyam reads as follows:

Competency of husband and wife as witnesses in certain cases.

126. (1) In all civil proceedings the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses.



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(2) In criminal proceedings against any person, the husband or wife of such person, respectively, shall be a competent witness.

5. A perusal of the above provision would make it clear that the spouse is a competent witness to give evidence on behalf of the party to the litigation. Therefore, the trial Court rightly by relying on Section 126 of Bharatiya Sakshya Adhiniyam, allowed the application filed by the respondent.

6. I do not find any irregularity or illegality in the said order. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.02.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The Additional District Munsif Court,
Tiruvallur.



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S.SOUNTHAR, J.

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