

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, CUDDALORE

Present: Selvi.B.Phebe, B.A.,LLB.,

Additional District Munsif, Cuddalore

Friday, the 20th day of February – 2026

I.A.No.35/2026 in O.S.No.54/2014

1. Venkatesn (Died) ...Petitioner/Plaintiff
2. Kasthuri ...Petitioner/Proposed Power Agent
rep. by Power Agent Jayaprakash

-Vs-

1. Mani
2. Balaraman
3. Kasthuri
4. Latcham
5. Selvam
6. Baskar
7. Murugan
8. The Joint Registrar-1, Cuddalore.
9. I.Jeenath
- 10.R.Sekar
- 11.M.Alima
- 12.J.Ajitha
- 13.M.Rabinisha
- 14.K.Selvam
- 15.A.Sathish
- 16.S.Senthil

17.K.Murgaiyan

18.B.Ramesh

19. Tamilnadu Mercintile Bank, Cuddalore.

Counsels on Record:

For Petitioner : Mr.S.Ram Mohan

For R1, R2 : Mr.L.Devanathan

For R4 : M/s.Kavipriya

For R3, R5 to R19: Exparte

This petition came before this Court in the presence of both counsels and upon perusal of records and having stood over for consideration till this day, this court delivers the following:

ORDER

This is an application taken out by Petitioner under Order 3 Rule 2 of CPC and r/w Rule.16(2) of CRP to permitting the 2nd petitioner to appear on behalf of Plaintiff/Principal namely Kasthuri to proceed with the suit and contest the case on all grounds.

2. Gist of the Affidavit filed by the Petitioner:

(i) The petitioner herein is the power agent of the plaintiff/Principal. The petitioner/plaintiff has filed the above suit for declaration and for permanent injunction and for other reliefs against the respondents herein. The Petitioner's

mother Lalitha is the sister of 2nd plaintiff/Principal. As both the 1st and 2nd plaintiff has no legal heirs, they treated the petitioner herein as their adopted son.

(ii) The 2nd plaintiff/Principal have executed a General power of attorney in her favour on 12.09.2025 for appointing the petitioner as a power agent to prosecute the suit, since the plaintiff is unwell and old aged about 60 years and she cannot able to appear before this Hon'ble. The petitioner is personally very well aware of facts the case. Hence, the petitioner may be permitted to get along with the suit and contest the case all grounds on behalf of plaintiff/Principal namely Kasthuri in the suit and the petitioner may be permitted to appear on behalf of Plaintiff/Principal namely Kasthuri.

3. Gist of the Counter filed by the Respondents 1, 2 and 4:

(i) The power agent, the petitioner has no locus standi to conduct or represent the deceased 1st plaintiff or the surviving 2nd plaintiff before this Hon'ble Court. It is specifically submitted that the petitioner has no locus standi to swear or file the present affidavit in his own name. Under Order III Rule 2 of the Code of Civil Procedure and Rule 16(2) of Civil Rules of Practice, a person claiming to act as a power agent cannot function as such unless and until this Hon'ble Court formally recognizes him as the duly authorized representative of the party. Unless such recognition is granted, he cannot file any petition, affidavit or pleading in his own name nor can he verify or depose to facts relating to the suit. Therefore, the present

affidavit, sworn by the alleged power agent even before recognition, is void ab initio and not maintainable in the eye of law.

(ii) The affidavit states that both 1st and 2nd plaintiffs had treated the petitioner as their adopted son. There is no legal adoption proved under the Hindu Adoptions and Maintenance Act. 1956, nor has any decree of declaration been obtained. Hence, the petitioner cannot claim any representative or legal status. Since, no steps have been taken under Order XXII CPC for substitution of the legal representatives of the deceased 1st plaintiff, the entire proceeding gets abated as against him. The alleged General Power of Attorney dated 12.09.2025 is not proved before this Court. The petitioner, as a power agent, cannot depose evidence in the capacity of the principal/plaintiff.

(iii) Therefore, even if this Hon'ble Court were to recognize the petitioner as Power Agent, his role must be confined only to conducting the proceedings and not tendering oral evidence or affidavit evidence on behalf of the plaintiff. Mere age or ill-health is not a ground to appoint a Power Agent. The plaintiff resides within the jurisdiction of this Court Cuddalore, and there is no evidence that she is bedridden or medically unfit to attend proceedings. The present petition, filed belatedly in 2025, is only to prolong the proceedings and harass the defendants. The Power of Attorney appears to be created recently and not contemporaneous with the filing of the suit. This itself shows lack of bona fides.

4. The point for consideration is whether the petition filed by the petitioners under Order 3 Rule 2 of CPC and r/w Sec.16(2) of CRP is to be allowed or not?

5. No witnesses were examined nor any documents were marked on either side.

6. Heard both sides. Perused the records.

7. Analysis:

(i) The petitioner has filed this petition seeking permission of this court to get along with the suit and to contest the case on all the grounds on behalf of 2nd plaintiff on the strength of the power of attorney deed. The petitioner relied on the judgment of Hon'ble Madras High Court in the case of *A.Sarojinidevi, rep. by her authorized Power Agent, A.Raja @ Rajaram v. A.Arumugam* reported in *AIR 1996 SC 339* for the proposition that when O.3 R.2 r/w. R. 16 of CRP is complied with, the court cannot disallow appearance by agent.

(ii) The respondents vehemently objected the above petition on the ground that a mere close relative or person claiming to be treated as adopted cannot act as Power Agent without lawful authority by relying upon the judgment in *R. Rajagopal v. M. Ranganathan*. (2017) 2 CTC 182. The respondents further objected the petition stating mere filing an unregistered instrument does not confer authority on the alleged agent. Order III Rule 2 CPC allows representation by a recognized agent only if such authority is validly executed and filed as required under Rule 33 of the Civil Rules of Practice (Tamil Nadu).

(iii) Yet another objection stated by the respondents by relying upon the judgment of Hon'ble Supreme Court in the case of Janki Vashdeo Bhojwani and another v. Indusind Bank Ltd., (2005) 2 SCC 217 is that a Power Agent may conduct the case procedurally (such as filing documents, engaging counsel, or representing for adjournments) but he cannot enter the witness box and speak about facts which are within the personal knowledge of the principal.

(iv) However, on perusal of records, this court finds that the matter is pending at the stage of cross examination of DW1. O. 3 R. 2 of CPC provides for recognized agents. The sub-clause (a) of R.2 specifically recognizes person holding power of attorney to make appearance, applications and acts on behalf of the parties. In the present case, the petitioner has filed the power of attorney deed executed before the notary public. The power deed authorizes the petitioner herein to represent and act on behalf of the 2nd plaintiff. The petitioner has hence complied with the mandatory provision of R. 16 of CRP and O.3 R. 2 of CPC.

(v) As for R. 33 of Civil Rules of Practice, it provides for the affidavit – Before whom may be sworn. It states that an affidavit used in judicial proceedings should be sworn before any of the aforementioned persons in the provision. Further there is no dispute as to the settled principle of law that the power agent cannot depose on the facts which are within the personal knowledge of the principal. The power deed was executed in petitioner's favor for conducting the case, as the 2nd plaintiff is not well and could not follow the case. Hence this court is of the view that

the power deed presented before this court is a proper and valid document.

In light of all the above discussions, this court is inclined to allow this petition.

In fine, petition allowed. No order as to costs.

Dictated to Steno Typist, typed and printed out by her and corrected and pronounced by me in open court, on this day, the 20th day of February – 2026.

Additional District Munsif,
Cuddalore.

List of Witnesses on Petitioner sides: Nil.

List of Documents on Petitioner sides:-

Doc.No.1	12.09.2025	Power of Attorney executed by Kasthuri in favour of Jayaprakash	Original
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List of Witnesses and Documents on Respondents sides: Nil.

Additional District Munsif,
Cuddalore.

ADM Court, Cuddalore.
Fair Order
