

**IN THE COURT OF SUBORDINATE JUDGE,  
MADURANTAKAM.**

**Present: Mr. T. GANESH, B.A., B.L.,  
Subordinate Judge  
Madurantakam**

**Saturday, this 07<sup>th</sup> day of February, 2026  
I.A.No. 4/2026  
in  
O.S No. 98/2016  
(CNR No. TNCG13000455-2016)**

Balakrishnan Represented by his  
Power Agent.  
Pachaiyappa Gounder

...Petitioner/ 4<sup>th</sup> Defendant

..Vs..

1. Vijaya  
2. Anupriya  
3. Vinupriya

...Respondents/Plaintiffs

1. Vatchala  
2. Rajesh  
3. Kanagadurga  
4. Pachaiyappa Gounder  
5. Saraswathi  
6. Vijayalakshmi

...Respondents/Defendants  
1 to 3 and 5 to 6

This petition coming up for final hearing on 05.02.2026 in the presence of Mr.R.Rajasekar, counsel for Petitioner/4<sup>th</sup>Defendant's Power Agent and Mr.R.S.Renganathan, counsel for respondents 1 to 3/plaintiffs 1 to 3 and after hearing the arguments on both sides and upon perusing the records, having stood over for the consideration of this court till date, this court delivered the following;

### **ORDER**

This petition is filed by the petitioner under Order III Rule 2(A) of Civil Procedure Code to recognize the petitioner as the power agent of the 4<sup>th</sup>defendant Pachaiyappan and permit to contest the case and to depose the witness on his behalf in the suit.

#### **2. Averments of the petitioner:**

Petitioner is the General Power Agent of 4<sup>th</sup>Defendant. Respondents/Plaintiffs has filed the suit for Partition against the 4<sup>th</sup>Respondent/4<sup>th</sup> Defendant and other Respondents/defendants. Petitioner's principal purchased the 2<sup>nd</sup> item of suit property under the registered sale deed dated 23.09.1997 from E.K.Bangaru for valid sale consideration. Due to his personal inconvenience, old age and hearing problem, he is not in a position to conduct the above case. So, he appointed the petitioner as his power agent under the General Power of Attorney deed dated 28-01-2026 to contest the case and to depose as witness on his behalf in the above case. Hence this application.

#### **3. Counter of the 1<sup>st</sup> Respondent adopted by Respondents 2 and 3 in brief:**

The respondents denies the allegations set out in the affidavit. 4<sup>th</sup> defendant alone is competent person to speak about the above alleged facts in his Written Statement by deposing evidence in the Witness Box and to subject himself for cross examination by plaintiffs. The alleged Power Agent does not have personal knowledge about the alleged facts pleaded by the petitioner/

defendant in his Written Statement, since the alleged Power Agent born only after the alleged sale of property by Bangaru Reddiar to the petitioner/4<sup>th</sup> defendant on 23.09.1997. The alleged illness, physical condition and alleged inabilities said to have suffered by the petitioner/4<sup>th</sup> defendant is nothing but invented one to avoid his appearance before this Court in the Trial of the above case and to subject him to the cross examination of the plaintiffs in the Trial. The petitioner/4<sup>th</sup> defendant did not file any medical proof to show that he was suffering from illness, physical inability on account of his old age. In any event the petitioner/4<sup>th</sup> defendant can be examined very well by appointing an Advocate Commissioner. The petitioner/4<sup>th</sup> defendant cannot substitute and replace his alleged Power Agent in his place to conduct the Trail of the suit on his behalf in order to avoid entering into the witness box directly. So the alleged Power Agent have no right under law to proceed with the Trial of the case on behalf of petitioner/4<sup>th</sup> defendant. The present petition laves bona-fidness and devoid of merits in it. Hence this petition is liable to be dismissed with cost.

4. No oral or documentary evidence adduced by both parties.
5. Heard both sides and perused the records.

**6. Point:**

***“Whether this application can be allowed?”***

This petition has been filed under Order III Rule 2(A) of the Code of Civil Procedure seeking recognition of the petitioner as the General Power Agent of the 4<sup>th</sup> defendant, Pachaiyappan, and for permission to contest the suit and depose evidence on his behalf.

In nut shell the petitioner contend that the due to old age and hearingn problem, the 4<sup>th</sup> defendant appointed him as his power of attorney and hence this petition. Respondent defends that there is no document produced to prove the reason and that the power agent cannot depose on behalf of the principal.

This Court has carefully considered the rival submissions and perused the materials placed on record. Order III of the Code permits a party to act through a recognised agent duly authorised by a valid power of attorney. However, the said provision does not dispense with the requirement of personal appearance or personal testimony of a party when the matters in issue are within his exclusive knowledge. The recognition of a power agent is intended to facilitate the conduct of proceedings and not to enable a party to completely avoid participation in the trial, particularly at the stage of evidence.

In the present case, the execution of the General Power of Attorney dated 28.01.2026 in favour of the petitioner is not disputed. The reasons assigned for executing the same are the advanced age and inconvenience of the 4<sup>th</sup> defendant. While old age by itself cannot automatically justify complete substitution of a party by a power agent, the court cannot also ignore practical difficulties faced by senior citizens in attending court proceedings. At the same time, the objections raised by the respondents regarding the necessity of the 4<sup>th</sup> defendant deposing to facts pleaded by him in the written statement cannot be brushed aside, as such facts appear to be based on his personal knowledge and are likely to require his presence for effective cross-examination.

Therefore, a balance has to be struck between the right of the 4<sup>th</sup> defendant to be represented through a recognised agent and the procedural requirement that evidence on matters of personal knowledge must ordinarily come from the party himself. In such circumstances, the petitioner can be recognised as the power agent of the 4<sup>th</sup> defendant for the purpose of conducting the proceedings, filing applications, engaging counsel, and assisting the court. However, such recognition cannot extend to substituting the 4<sup>th</sup> defendant in the witness box in respect of facts which are exclusively within his personal knowledge. Anyhow it is for the petitioner to decide that who should enter the witness box to

substantiate their defence and there no permission is needed for the same to examine witnesses on their side. If the 4<sup>th</sup> defendant fails to enter the witness box, the respondents have every right to take adverse inference as against the 4<sup>th</sup> defendant.

Accordingly, this Court is of the view that the petitioner may be recognised as the General Power Agent of the 4<sup>th</sup> defendant for the limited purpose of representing him and conducting the proceedings in O.S. No. 98 of 2016, subject to the condition that the personal appearance and examination of the 4<sup>th</sup> defendant shall not be dispensed with wherever required by law or directed by this Court. Hence this point is decided accordingly.

**7. Result:**

In the result this application is partly allowed by recognising the petitioner as power agent of the 4<sup>th</sup> defendant and that the application is dismissed in respect of other reliefs. No costs.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 07<sup>th</sup> day of February, 2026.

Subordinate Judge,  
Madurantakam.

**Both sides evidence and Exhibits : Nil.**

Subordinate Judge,  
Madurantakam.

**FAIR/DRAFT ORDER**  
**I.A No. 4/2026**  
**IN**  
**O.S No. 98/2016**  
**D.O.D: 07.02.2026**  
**SUB COURT,**  
**MADURANTAKAM**