

IN THE III ADDITIONAL CITY CIVIL COURT, CHENNAI

**Present: Tmt.R.K.P.Tamilarasi, M.L.,
III Additional Judge,**

Thursday, the 27th day of March, 2025

I.A.No.4 of 2024

in

O.S.No.4245 of 2024

1. Mrs. Haseena Begum
2. Mr.Syed Natif Nawaz
3. Mrs.Arshiya Afshan,
Rep. by power agent Ehtashamul Haq Petitioners/ Defendants 1 to 3

Vs.

1. Mr. Syed Masood Ali
2. Mr. Syed Mir Mohammed Ali Respondents/ Plaintiffs
3. Rafeel Thoufeeq
4. Hasan Basari Mohammed Asheef Respondents/Defendants 4 & 5

This petition came up on 13.03.2025 day for final hearing before this Court in the presence of M/s. I.Kowser Nissar, N.A,Nassir Hussain and M.Nuzhath Khanam, Counsels for the Petitioners/Defendants, 1 to 3 and of M/s. V.V.Sairam, K.Shajahan and Elumalai, Counsels for the 1st respondents / 1st and 2nd Plaintiff and the 2nd defendant having remained absent, set exparte and upon hearing the arguments of both sides and having stood over for consideration till this day, this Court delivered the following:

ORDER

This petition filed under order 3 Rule 2 & Section 151 of CPC to recognize the power agent Mr.Ehtashamul Haq to represent the defendants in the above suit.

2. The averments in the petition in short as follows:

The petitioners are the defendants 1 to 3 in the above suit, the Power agent of the petitioners Ehashamul Haq and filed the petition on behalf of the petitioners/ defendants 1 to 3. The respondents 1 and 2 have filed the above suit for declaration and other reliefs against the petitioners/defendants 1 to 3 and respondents 3 & 4. The defendants 1 to 3 are presently residing in the United States of America. The principal namely Haseena Begum, Syed Natif Nawaz and Arshiya Afshan who are the defendants in the above suit had executed a general power of attorney deed dated 20.04.2013 bearing Adjudication No.430/13 dated 29.04.2013 on the file of District Registrar, SRO Periamet authorizing Ehashamul Haq to defend, prosecute appoint lawyers etc., in respect of the suit property and the same is still in force. And therefore he is entitled to represent the petitioners/ defendants 1 to 3 as their recognized power agent herewith submitting the power of attorney deed dated 20.04.2013. Hence, it is recognized the power agent Ehashamul Haq to represent the defendants 1 to 3 in the above suit.

3. Brief averments stated in the Counter of 1st respondent in short as follows:

The 1st respondent have filed the counter for himself and 2nd respondent. He submit that the subject matter of the suit mainly revolves around the divorce obtained by his father from 1st respondent after he came to know about the illegal intimacy by the 1st respondent with one Murugan. Hence it is a matter very personal to the knowledge of the 1st respondent and she can not be represented by a Power of

Attorney and she has to come to court to give evidence. The power of Attorney can not give evidence with regard to the matter of the personal knowledge of the third party. It is seen that the Power of Attorney dated 23.04.2013 about 10 years ago. More over the said power relate is to the property of the 1st respondent and not with regard to any personal matter of the 1st respondent.

4. Point for consideration:

Whether this petition is to be allowed or not?

5. Point :

The petitioners are the defendants 1 to 3 in the above suit. The petitioners/ defendants 1 to 3 filed this petition U/o.III R.2 of C.P.C to recognize through the Power agent Mr.Ehthashamul Haq to represent on behalf of the defendants 1 to 3.

6. The petitioners/defendants 1 to 3 are presently residing in the United States of America. The principal namely Haseena Begum, Syed Natif Nawaz and Arshiya Afshan who are the defendants in the above suit had executed a general power of attorney deed dated 20.04.2013 bearing Adjudication No.430/13 dated 29.04.2013 on the file of District Registrar, SRO Periamet authorizing Mr.Ehthashamul Haq to defend, prosecute appoint lawyers etc., in respect of the suit property and the same is still in force. The power of attorney document is filed along with this petition. On the other hand, the respondent stated that the power of Attorney can not give evidence with regard to the matter of the personal knowledge of the third party. It is seen that the Power of Attorney dated 23.04.2013 about 10 years ago. Hence prayed to dismiss the petition.

7. Heard both sides and perused the records. The petitioners/defendants 1 to 3 are presently residing in the United States of America. The principal namely Haseena Begum, Syed Natif Nawaz and Arshiya Afshan who are the defendants in the above suit had executed a general power of attorney deed dated 20.04.2013 bearing Adjudication No.430/13 dated 29.04.2013 on the file of District Registrar, SRO Periamet authorizing Mr.Ehthashamul Haq to defend, prosecute appoint lawyers etc., in respect of the suit property and the same is still in force. Therefore the power agent is entitled to represent on behalf of the petitioners/ defendants 1 to 3 as their recognized power agent. The power of attorney deed dated 20.04.2013 is enclosed along with this petition. The counsel for the respondent vehemently argued opposing the petition. Since, the petitioner/defendants 1 to 3 are residing at U.S.A on their behalf the power agent to be represented. In the interest of justice, this court is inclined to allow this petition.

In the result, this petition is allowed. No costs.

Directly dictated to the stenographer, computerized by her, corrected and pronounced by me in the open Court, this the 27th day of March 2025.

Sd/-(R.K.P.Tamilarasi)
III Additional Judge,
City Civil Court, Chennai.

List of Witness and documents on both side : Nil

Sd/-(R.K.P.Tamilarasi)
III Additional Judge,
City Civil Court, Chennai.

**Amended order as per memo
dated 28.4.2025**

Draft / Fair : Order

I.A.No. 4/2024
in
O.S.No.4245 of 2024

Dated: 27.03.2025

III Additional
City Civil Court,
Chennai.