

IN THE IV ADDITIONAL CITY CIVIL COURT, CHENNAI

**Present: Tmt.R.K.P. Tamilarsi,M.L.,
IV Additional Judge.**

Tuesday, the 05th day of August 2025

I.A.No. 4 of 2024

in

O.S.No.7242 of 2022

C.N.R.No.TNCH01-041981-2022

Mr. Deep Chand Jain,
S/o. Kissanlal Jain,

...Petitioner/Plaintiff

versus

Mr.P.S. Vinayagamurthy,
S/o. Subramaniam,

...Respondent/Defendant

This petition came up before me for final hearing on 03.07.2025 in the presence of M/s.J. Karunanithi, T.G. Govindaraj, G. Chandrasekar Counsels appearing for the petitioner/plaintiff and of M/s.M. Jayakumar, A. Sathya, M. Suresh, C. Kumaravel Counsels appearing for the respondent/defendant, upon hearing the arguments from the counsels for both side, upon perusing the records of this case and having stood over for consideration till this day, this Court passed the following

ORDER

This petition has been filed by the petitioner/plaintiff Under Order XVI Rule 1A R/W Section 151 of Civil Procedure Code to permit the Plaintiff's son Rahul Kumar.D to depose evidence on behalf of the Plaintiff.

02. Brief averments made in the affidavit of the petitioner:-

The petitioner/plaintiff stated that petitioner filed the above suit for declaration, Injunction and recovery of possession as against the defendant the above suit is now posted for trial. The petitioner held in the business of builder/promoter, forming of layouts and also petitioner is an investor. In the course of his business the petitioner traveling all over India. Therefore the petitioner authorize his son Rahul Kumar.D to give evidence and depose in the above case on his behalf. His son is also acquainted with the facts and circumstances of the case. The petitioner stated that unless this application to give evidence on his behalf is allowed. The petitioner will be put into irreparable loss and huge hardship will be caused to him. On the other hand by allowing the application no prejudice will be caused to the Respondent/defendant. Hence the petitioner/plaintiff prayed to allow this petition.

03. Brief averments made in the counter of the respondent:-

This respondent/defendant stated that the suit is ripped for trail. In such circumstance this Court has granted to file the proof affidavit of PW1 on various date. Despite several opportunities, the plaintiff has failed to file the proof affidavit of PW1. While so, the petitioner/plaintiff has come forward to file the present application is only to drag on the proceedings. The respondent further stated that they have a good and valid case on merits and the petitioner has no

locus stand to file the aforesaid Suit. Hence, the respondent/defendant prayed for dismissal of the petition.

04. Point for consideration :

Whether this petition is to be allowed or not ?

05. No document was marked and no oral evidence was adduced by either side for this petition.

06. Point:-

The petitioner/plaintiff filed the above suit for Recovery of possession from the defendant and for permanent injunction. The above suit is posted for trial stage. At this stage, the petitioner/plaintiff filed this petition to permit the Plaintiff's son Rahul Kumar.D to depose evidence on behalf of the Plaintiff. The reasons stated by the petitioner is that, since he is going business traveling all over India hence, he could not able to attend the Court regularly. Therefore, the plaintiff authorized his son Rahul Kumar, to give evidence and depose on behalf of the plaintiff.

7. On the other hand, the respondent objected that several opportunities were granted to the plaintiff to depose plaintiff side evidence instead he has come forward with this application only the purpose to drag on the proceedings of this case.

8. Heard both sides and perused the records. The above suit is posted for trial stage. At this stage, the petitioner/plaintiff filed this petition to permit the Plaintiff's son Rahul Kumar.D to depose evidence on behalf of the Plaintiff. The reasons

stated by the petitioner is that, since he is going to business traveling all over India hence, he could not able to attend the Court regularly. Therefore, the plaintiff authorized his son Rahul Kumar, to give evidence and depose on behalf of the plaintiff. The reason stated by the petitioner is acceptable one. Since he is traveling all over India, he could not able to attend the Court regularly. Hence, the plaintiff authorized his son Rahul Kumar, to give evidence and depose on behalf of the plaintiff. There is no prejudice caused to the other side. In the interest of justice, this Court is inclined to allow this petition.

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

This Order has been dictated by me to the steno typist directly and computerized by her, corrected and pronounced by me in the open Court on this Tuesday, the 05th day of August 2025.

IV Additional Judge,
City Civil Court, Chennai.

Both side witness examined and exhibit marked:Nil

IV Additional Judge,
City Civil Court, Chennai.

**Draft/Fair Order
in
I.A.No.4/2024
in
O.S.No.7242/2022
Dated:05.08.2025.**

**IV Additional
City Civil Court,
Chennai.**