

IN THE COURT OF THE ADDITIONAL SUB JUDE, PALANI.

**Present : Thiru. J. Jeya Suthahar, M. Sc., L.L.M.,
Additional Sub Judge, Palani.**

Dated this the 28th day of March 2022, Monday.

**I.A.No.460/2021
in
O.S. No.480/2014**

Prema

--- Plaintiff

/ Vs /

1. Muthusamy
2. Kuppathal
3. Jegathambal
4. Sivaranjani
5. Veeraveni

--- Respondents/Defendants

Sakthivel

Petitioner/Power Agent of
--- the plaintiff

This petition came before me for final hearing on 15.03.2022 in the presence of Thiru.C. Padmanaban, Learned Counsel for the petitioner/power agent of the plaintiff and Thiru.P.R.D.Ravi and P.Jeevanantham, Learned Counsels for the Respondents/Defendants and upon hearing the arguments on both side and upon perusal of records and having stood over for consideration till this date, this court doth delivers the following:

ORDER

This petition is filed by the Petitioner Under Order 3 Rule 1 and 2 & Sec. 146 and 151 of CPC.

2. The averments in the petitioner's affidavit filed in support of the petition in brief as follows:

The petitioner is the power agent of the plaintiff in the suit. The plaintiff is the wife of the petitioner. The plaintiff became entitled to 1/3 share in the suit

properties by virtue of a registered settlement dated dated 06.02.2016. The above suit has been filed by the plaintiff for partition of her 1/3 share in the suit properties and other reliefs. During the pendency of the above suit the kidney of the plaintiff's were affected and after kidney transplantation she has been in continuous medical treatment. So the plaintiff executed a notary attested power deed to the petitioner on 04.10.2021. Hence the petitioner may be permitted to conduct the suit as power of the agent of the plaintiff. Hence the petition is filed.

3. The averments in the counter statement filed by the 1st respondent adopted by 2nd respondent in brief as follows:

This petition is not maintainable in law and on facts. The suit properties belongs to Sundararajan by virtue of a will dated 28.02.1995 and a relinquishment deed dated 28.05.2003. He died intestate on 05.01.2006. After his death the 3rd defendant who is his wife and the defendants 4 and 5 who are his children became entitled to the properties and had been enjoying the same. The 3rd defendant for her self and as guardian of the 5th defendant sold the 1st item of the suit property to the 1st defendant by a registered sale deed, dated 08.02.2006 and they sold the 2nd item of the suit property to the 2nd defendant by a registered sale deed dated 30.05.2006 and since then the respondents 1 and 2 are in possession and enjoyment of the properties. The 3rd defendant who is the mother of the 5th defendant sold the share of the 5th defendant when she was minor and handed over the possession of the properties to the respondents. Hence the 5th defendant has no right and interest in the properties. While being so the 5th defendant executed a power deed in favour of the petitioner on 11.05.2010 as though she is having 1/3 share in the properties, and on the basis of the above said power deed, the petitioner executed a nominal sale deed in favour of his wife's sister on 23.09.2013. There after she executed a settlement deed on 06.02.2014. When the plaintiff talked for mediation they came to know about the fraudulent Acts of the plaintiff and the defendants 3 and 4 and thereafter the 5th defendant canceled the general power deed, dated 11.05.2010 on 18.11.2014.

Meanwhile, the respondents gave a complaint before the land grabbing cell, Dindigul against the plaintiff and defendants 3 to 5. The FIR was registered in Crime No.72/2015 under Section 120(b), 420, 465 and 468 IPC and it is now pending before the land grabbing court, Madurai. Since the 5th defendant canceled the General Power of Attorney deed, dated 11.05.2010 on 18.11.2014, the petitioner need not be recognized as the power agent of the plaintiff. Hence the petition is liable to be dismissed.

4. Both side no oral and documentary evidence was adduced in this petition.

5. The point for decision in this petition is whether this petition deserves to be allowed or not?

6. The petitioner has filed the petition to recognise him as the power agent of the plaintiff in the above suit. According to the petitioner during the pendency of the above suit the kidneys of the plaintiff's were affected and after kidney transplantation she has been in continuous medical treatment. Further according to the petitioner, the plaintiff executed a power deed attested by the notary advocate on 04.10.2021 to conduct the suit and that hence the petitioner may be permitted to the conduct the suit as power of the agent of the plaintiff. But according to the respondents/defendants since the 5th defendant canceled the General Power of Attorney deed, dated 11.05.2010 on 18.11.2014, the petitioner need not be recognized as the power agent of the plaintiff.

7. As already stated the petitioner has filed this petition to recognize him as power agent of the plaintiff and to conduct the suit on her behalf by stating that during the pendency of the above suit the kidneys of the plaintiff's were affected and after kidney transplantation she has been in continuous medical treatment. The above facts stated by the petitioner is not disputed by the respondents. But the respondents 1 and 2 objected the petition by raising strong objections, touching the merits of the

case. Here the only question to be decided is whether the petitioner can be permitted as the power agent of the plaintiff to conduct the suit. The petitioner has filed the original power deed executed by the plaintiff before Notary Advocate on 04.10.2021. The above document is not disputed by the respondents. So also it is stated that the the petitioner is doing kidney transplantation and she has been taking continuous medical treatment. The above fact is also not denied by the respondents. So considering the above facts and circumstances of this case and in the interest of justice this court is of the view that this petition deserves to be allowed.

8. In the result this petition is allowed and the petitioner is recognized as the power agent of the plaintiff and the petitioner is permitted to conduct the suit on behalf of the plaintiff. No costs.

Dictated to the the steno-typist directly and computerized and printed by him and pronounced by me in the open court on this the 28th day of March 2022.

**Additional Sub Judge,
Palani.**

Petitioner side witnesses and documents: NIL

Respondents side witnesses and documents: NIL

**Additional Sub Judge,
Palani.**

Additional Sub Court, Palani.
I.A.No.460/2021
in
O.S.No.480/2014
_____Order
Date : 28.03.2022