

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DHARMAPURI

Present: Tmt.U.Monica,M.L.,
Additional District Judge,
Dharmapuri.

Friday, this the 8th day of August 2025

I.A.No.9/2025
in
O.S.No.160/2023

Mrs.K.V.Sharmila
residing at Dallas/Frisco, Texas, U.S.A.
represented by her
Power of attorney agent,
Mr.S.Y.Vincent.
Washermanpet, Chennai.

...Petitioner/plaintiff

/versus/

1).Manjula.
2).Kasthuri.

...Respondents/defendants.

This petition is coming on 1.8.2025 for final hearing before me in presence of Chennai Law Associates (Mr.M.L.Joseph, Advocate) for the petitioner and Mr.K.R.Ramesh, Advocate for respondent/second defendant and upon hearing both side arguments, on perusal of the entire case records and having stood over till this day, this court pronounces the following order:

ORDER

This petition has been filed under rule 4 of the Madras High Court Video conference in Courts Rules, 2020 r/w section 151 of CPC.

2. The averments in the petition in brief is as follows:

According to petitioner, the above suit is now posted for trial and the petitioner

has to give evidence on her behalf. At present, she is residing in Texas, USA and is gainfully employed and living there since 1999. Her job exigencies do not permit her to take leave and come to this Court for attending the above case for recording of evidence. Therefore, she is not in a position to come to this Court personally to mark her physical appearance in the above case and attend the Court proceedings. Hence she has executed a Deed of Special Power of Attorney dated 4.1.2023 executed and notarized in USA, as her lawfully constituted Power of Attorney Agent to represent her. So, she may be permitted to cause her appearance through video-conferencing before the Court on the date and time fixed as per the convenience of the Court at the time of recording evidence. No prejudice would be caused to the respondent, Hence she may be permitted to represent and give evidence through Tele/video conferencing in joint trial of O.S.No.160/2023 and O.S.No.40/2024 as and when required by this Court by her cost. Hence the petition has to be allowed.

3. The counter filed by the respondent in brief is as follows:

The petitioner may reside in the USA, this does not automatically grant her the right to avoid a physical appearance in Court, especially when her evidence and cross examination are crucial to the outcome of the suits. The petitioner's claim of job exigencies is a vague and unsubstantiated reason for her inability to attend. It is a self serving statement without any supporting documentation or proof from her employer. The petitioner has been residing in the USA since the year 1999, yet she chose to initiate

litigation in India, which she should have foreseen would require her physical presence. The petitioner has appointed a Special Power of Attorney Agent to represent her. This implies that she has delegated her responsibilities, and this is contrary to the general rule that the evidence of a party must be recorded in person. It is not an "exigency" but a deliberate choice to avoid court proceedings. The purpose of a physical appearance is to allow this Court and the opposing party to assess the demeanor and credibility of the witness, which is an essential part of the Justice delivery system. The nuances of a witness's testimony are often lost or misinterpreted through video conferencing. The allegations made in the suits, particularly in O.S.No.160/2023 and O.S.No.40/2024, are of a serious nature and involve intricate questions of fact, which require a thorough and meticulous cross-examination. Such an examination would be severely hampered and compromised if conducted through video conferencing. It would prevent defendant, from effectively questioning the plaintiff and exposing inconsistencies in her testimony. The petitioner/plaintiff request for video conferencing is a clear attempt to cause prejudice to respondent. The petitioner has not given any valid and sufficient reason and the alleged reason are all false and untenable. There is absolutely no bonafide and merit in the petition and liable to be dismissed.

4. The point for consideration:

Whether the petition is to be allowed or not?

5. Heard both side. No oral or documentary evidence have been adduced on either

side.

6. Points:

6.1) According to petitioner as she is residing in Texas, U.S.A and employed there, due to her job she is unable to come to India and give evidence physically in the Court, so she must be permitted to give evidence through video conferencing mode.

6.2) The respondent resisted the petition by contending that only to drag on Court proceedings, this petition has been filed, the petition has to be cross examined meticulously which would be severely hampered and compromised if conducted through video conference. Hence petition has to be dismissed.

6.3)The case is in the stage of trial. At present the petitioner has filed this petition. The respondent does not deny the fact that petitioner is employed at Texas U.S.A and residing there. The petitioner although executed Power attorney to conduct the case, she seeks permission to give evidence through video conference mode. This Court is of view that evidence of petitioner is very important to prove her case. This court finds valid force in her contention that it will be highly inconvenient for her to come to court in person to give evidence. The examination of the petitioner through video conferencing mode by following necessary protocol will not in any way affect the respondent's case. The respondent very well cross examine her. Hence in the interest of justice to provide the petitioner an opportunity to prove the case and to prevent multiplicity of proceedings and for proper adjudication of the case, this petition is

allowed and petitioner shall bear necessary expenses.

In the result the petition is allowed. No cost.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 8th day of August 2025.

Additional District Judge,
Dharmapuri.

Petitioner Side witness, Exhibits: Nil
Respondents Side witness, Exhibits: Nil

Additional District Judge,
Dharmapuri.

Fair Order
I.A.No.9/2025 in
O.S.No.160/2023
Dated:8.8.2025.