

**IN THE COURT OF THE I ADDITIONAL DISTRICT MUNSIF,
NAGERCOIL.**

Present: Thiru. R. Sundara Kamesh Marthandan, M.L.,
I Additional District Munsif, Nagercoil.

Friday, on the 4th day of October, 2024.

I.A. No. 15 of 2024

in

O.S. No. 84 of 2015

M. Mary Nirmala

... Petitioner/Plaintiff

-VS -

1. M.Antony Lawrence

2. A. Lourthammal

... Respondents/ Defendants

This Petition came before this Court on 19.09.2024. Mr. Joy Basker, Learned Counsel for the Petitioner and of Mr. A. Gnanasekar, Learned Counsel for the Respondents. Upon perusing the case records and having stood over till date for Consideration, this Court hereby delivers the following:

ORDER

1. The Petitioner had filed the above Petition under Section 151 CPC seeking to eschew the evidence of PW1.

2. The Petitioner had stated that she's working away. She gave Power of Attorney in favour of her husband, to conduct the case. Therefore an application in I.A. No. 13 of 2024 was filed and her husband filed the Chief Affidavit. She had

further stated that her husband is affected with Chronic Laumar infarct of Right Thalamus Small vessel ischemia (Stroke). Hence he is not able to adduce evidence before this Court. Hence his evidence has to be eschewed and the Plaintiff should be permitted to adduce evidence. Therefore the above Petition.

3. On 28.06.2024, the Respondent counsel had endorsed no counter, in the above I.A.

4. The Point for Consideration is whether the above Petition has to be allowed or not?

5. The Petitioner herein is the Plaintiff. The Chief Affidavit is said to have been filed by her husband. It is needless to mention that irrespective of the Power of Attorney and Permission Petition, as provided under Section 110 of the Indian Evidence Act, spouse of a Party to the Proceedings are entitled to adduce evidence. In such circumstances, the evidence by way of filing Chief Affidavit, through her husband could not be construed as evidence of a third party. Hence the Petitioner is entitled to adduce evidence for her case. With regard to the ailments of the Petitioner's husband, the same is not denied or disputed by the Respondents. Rather the Respondents have endorsed no objection for allowing the above Petition. In view of the discussions made above, the Petitioner is entitled for the Petition relief.

In the result the above Petition is allowed.

No cost.

Dictated to the Steno-Typist, transcribed and typed by her in Computer, corrected and pronounced by me, in Open Court this, the 4th day of October, 2024.

Sd/-

I Additional District Munsif,
Nagercoil.

Petitioner side witnesses & documents : Nil.

Respondents side witnesses & documents : Nil.

Sd/-

I Additional District Munsif,
Nagercoil.

*I ADM Court, Nagercoil.
Draft/Fair Order in
I.A.No.15/2024 in
O.S.No.84/2015
Date:04.10.2024*

