

IN THE COURT OF THE II ADDITIONAL DISTRICT MUNSIF,
Present : Selvi. V. Sivaranjani, B.A., L.L.B.,
II Additional District Munsif, Nagercoil
Wednesday, on the 16th day of April, 2025.

I.A. No.12 of 2025 in

O.S. No. 196 of 2011

John Kennady

... Petitioner

-vs-

1. Rajappan
2. Nambi @ Nambiraja
3. Ganesan
4. Chidambaram
5. Krishnaveni
6. Mangalamoorthy
7. Kalaivani
8. Muthuswamy @ Gunasekaran (died)
9. Lekshmanan @ Ravichandran
10. Asokan
11. Chenthil
12. Nagarajan
13. Ramadhas @ Babu
14. Arunachalam @ Reghu
15. Lekshmi
16. Revathi
- Addl. 17. Mariyammal
- Addl. 18. Maharajan
- Addl.19. Chithra

(Additional defendants 17 to 19 as per
Order in I.A.No.203/2014 dated 12.08.2014 and
amended as per order in I.A.No.18/2015
Dated 04.07.2015)

.... Respondents/Defendants

This petition came before this court on 09.04.2025 for a final hearing in the presence of Mr. A. Sahaya Arasu, learned counsel for the petitioner and Mr. N.S. Arumughavel & A. Raveendran, learned counsels for the 1, 3 to 7 and 9 to 15, 17, 19 respondents / 1, 3 to 7 and 9 to 15, 17, 19 defendants and Additional 18th Respondent / Additional 18th defendant was set exparte in this suit and 2nd and 8th Respondents/2nd and 8th defendants were died and upon hearing both sides, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

ORDER

The petitioner had filed the above petition under Order III Rule 2 and Section 151 of the Code of Civil Procedure and Rule 16 of C.R.P. seeking to accept the power of attorney executed by the plaintiff in favour of the petitioner and permit him to conduct the trial of case on behalf of the plaintiff in the nature and circumstances and thus render justice,

Gist of Averments in the Petitioner's Petition:

2) The Petitioner is the petitioner herein. The petitioner was filing this affidavit as an power agent for and on behalf of the plaintiff. The petitioner was conversant with the facts of the case. The plaintiff has filed this suit for Permanent injunction in respect of the plaint scheduled property. The petitioner humbly submit that the plaintiff is petitioner brother's mother in law and the plaintiff health is not well and hence she appointed petitioner to act as power agent and executed a power of attorney on 17.11.2018. The petitioner hereby enclosed the same. The petitioner humbly submit that the case is open for trial and if the power deed is not accepted then the plaintiff will be put into much difficulty and hardship and the same cannot be compensated later. Therefore, it is just and necessary that the court may be pass necessary order to accept the power of attorney executed by the plaintiff in favour of petitioner and permit petitioner to conduct the case on behalf of the plaintiff in nature and circumstance of the case. Hence, the petition is to be allowed.

Gist of Averments in the Respondents / Defendants Counter :

3) The Respondents/defendants have filed counter stating that the averments stated herein specifically admitted or otherwise dealt with shall be deemed to have been closed. All the averments in para 1 and 2 or not fully correct and it has to be proved by the plaintiff. The averments in para 3, 4, 5 are

not fully correct and denied. The plaintiff is doing well and she is not affected by any ill health. In order to prove her ill health no documentary evidence such as medical certificate is not produced. In order to protract the trial this petition to accept the power of attorney is filed. This petitioner has no nexcess with the property and he does not no any thing about the property. So, it has to be proved through oral and documentary evidence. Hence, the respondents pray that to accept this counter and dismiss the petition with costs.

4) The point for consideration is whether the above petition has to be allowed or not?

5) Point

6) Heard both sides. Records perused. Originally the suit had been filed by the plaintiff Muthammal against the respondents/defendants for the relief of permanent injunction. The case is posted for trial. At this juncture the petitioner comes up with this present petition.

7) Along with the petition, the certified copy of power of attorney has been produced. In that certified copy, the court name has been wrongly mentioned as "Nagercoil Sub Court" instead "II Additional District Munsif, Nagercoil". Hence, it has been posted for clarification. Then, On 09.04.2025, Another original power of attorney dated 29.03.2025 has been filed. On perusal of the power of attorney, it is revealed that the original plaintiff Muthammal, executed

a power of attorney in favour of petitioner, namely John Kennedy, before the notary public, contented that she appointed the petitioner to contest the litigation in O.S. No.196/2011 on the file of the II Additional District Munsif, Nagercoil. But, the power of attorney has not been registered.

8) Considering the fact of distant relationship between the petitioner and the original plaintiff that the original plaintiff is a brother's mother in law to the power of attorney holder, this court finds it difficult to accept this power of attorney without registration and also in the interest of justice, this court is not inclined to allow this petition.

As a result, This petition is dismissed.

Dictated to the Steno-Typist, and typed by her directly in the Computer, corrected and pronounced by me, in open court this, the 16th day of April, 2025.

sd/-

II Additional District Munsif
Nagercoil.

Petitioner side witnesses and documents : Nil.

Respondents side witnesses and documents : Nil.

sd/-

II Additional District Munsif
Nagercoil.

*Draft/Fair Order
I.A.No. 12/2025 in
O.S.No.196/2011
Date: 16.04.2025
II ADM Court,
Nagercoil.*