

In the Court of District Munsif, Mudukulathur

Present : Ms.J.C.Aparna, B.A, L.L.B.,

District Munsif,

Mudukulathur.

Wednesday the 10th day of December 2025

I.A.No.03/2025

in

O.S.No.10/2025

Maruthupandiyan

..... Petitioner/Plaintiff

(Plaintiff rep. through his power agent Gunavathi)

/VS/

1. Kaneeswari

2. Muniyasamy

3.Thirunavukarasu

4. Panchavarnam

..... Respondents/Defendants

This petition came on 20.11.2025 before this court for final hearing in the presence of Thiru.K.Alagarsamy Learned Counsel for the Petitioner/Plaintiff, Thiru.M.Dharmar, Learned Counsel for the Respondents/Defendants and upon hearing both sides enquiry and upon perusing the material records and having stood over till this day for consideration, this court delivered the following:

ORDER

This petition is filed by the petitioner U/O III R 2(a) of C.P.C prays to recognize the petitioner as power agent on behalf of original plaintiff.

2. Brief averments of the Petitioner/Plaintiff in brief:-

The petitioner is the power agent of the plaintiff. She is the wife of the plaintiff. The plaintiff has executed a power of attorney in favour of this petitioner to act, plead and depose on his behalf. Since the plaintiff has secured employment in Singapore and is required to go abroad for work, he has

appointed the petitioner as his power agent. Hence prays to allow this petition permitting the petitioner to act and plead on behalf of the plaintiff in this suit.

3. Brief averments of the Respondents/Defendants in brief:

The respondents/defendants deny the averments in the petition. This petition is filed deliberately to prolong the proceedings. The power agent cannot depose on behalf of the plaintiff. Hence the petition is liable to be dismissed.

4. Point for consideration:-

Whether the petition be allowed and the relief be granted as prayed for?

No documents filed on either side. Heard both sides.

5. Answer to the Point:-

5.1. The case of the petitioner is that since he has secured a job in Singapore, he is required to go abroad for work and has appointed the petitioner as his power agent. The respondents/defendants deny the averments in the petition. This petition is filed deliberately to prolong the proceedings. The power agent cannot depose on behalf of the plaintiff.

5.2. The Order 3 Rules 1 and 2 of the CPC empowers the holder of the power of attorney to appear and act in any Court in respect of an act required or authorised by law to be made or done by a party in such Court. It is well settled law that the term act cannot include deposing on behalf of the principal for the facts which are in the personal knowledge of the principal. But section 120 carves out an exception that a husband can depose on behalf of his wife and vice versa even in the absence of a written authority or power of attorney, and such a witness can be permitted to depose not only the facts within their knowledge but also within the knowledge of their spouse.

5.3. Also the Honourable Madras High Court in *Shenbagavalli and one other Vs Kallaichelvi (S.A No 120/2008)*, has held that, “24. Now one

circumstance that would still require the litigant spouse to testify for discharging the burden on onus, as the case may be, cast on him/her is, when the other spouse who initially steps into the witness box on behalf of the litigant-spouse makes a specific statement as part of the testimony, that the former does not have any specific knowledge about any particular fact, and that the said fact is only within the knowledge of the litigant-spouse. It is in those circumstances, it will become obligatory for a litigant-spouse to testify, and if any abstinence is shown then adverse inference can well be drawn, since the best evidence rule is breached. It may have to be underscored here, the facts that are so required to be spoken must be those that impact the cause of action directly and not too remotely, which would necessarily have to be assessed on the basis of the facts of each particular case.”

5.4. In the present case, the plaintiff has secured a job in Singapore and has assigned his wife as his power agent. As discussed above spouse can very well depose on behalf of the litigant spouse even in the absence of written authority as per Section 120 of Indian Evidence Act. The petitioner is also duly appointed as a power agent and the power deed is also produced. Hence in the light of the above discussions, this petition is allowed and the petitioner is recognized as the power agent of the plaintiff. No costs.

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

Directly typed by me in my official laptop and formatted by Steno Typist, corrected and pronounced by me in open court on this 10th day of December 2025.

**District Munsif,
Mudukulathur.**

Both sides witnesses and documents : Nil

**District Munsif,
Mudukulathur.**