



IN THE COURT OF THE DISTRICT MUNSIF, THIRUVADANAI

PRESENT : Thiru.J.Antony Rishandev B.B.A.,LLB., (Hons).,
District Munsif, (FAC)
Thiruvadanai.

Thursday, the 16th day of October 2025

IA No. 01/2025

in

OS No.252/1995

Rajammal and 69 others

... Petitioners/Plaintiffs

Vs

Anandhammal

(Through her power agent of Chinnathambi)

...Respondents/Defendants

This petition came up on 16.10.2025. for final hearing, in the presence of Mr.N.Balaji, advocate for the Petitioners and Mr.J.Uthuman, advocate for the Respondents, upon perusing the case records and having stood over for consideration till this day, this Court hereby delivered the following...



ORDER

This Petition was filed by the petitioners herein u/s. 151 of CPC who are the defendants in O.S 252/1995 to strike off the evidence adduced by Pw2 in O.S 252/1995. The Petitioner states that Pw2 has been appointed as the power agent of Pw1 by this court in O.S 252/1995 and further states that since Pw1 has adduced evidence in this suit Pw2 cannot further adduce evidence on behalf of Pw1, hence seeks to strike off the evidence adduced by Pw2 in the main suit.

After this petition was filed, notice was served upon the respondent herein who is the Plaintiff in O.S 252/1995 and the respondent herein filed a counter stating that the Pw2 being the husband of Pw1 is legally competent to depose evidence on behalf of Pw1 based on S.120 of Indian Evidence Act, 1872. He further stated that this petition is not maintainable and was filed by the petitioners herein to drag on the proceedings of the main suit, hence seeks to dismiss the petition.

After perusing the case records and giving opportunities to hear both sides, this court makes the following order:

It is not in dispute between both parties that Pw2 is the husband of Pw1, further S.120 of Indian Evidence Act,1872 states as follows :



*120. Parties to civil suit, and their wives or husbands.
Husband or wife of person under criminal trial. — In all civil proceedings the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses. In criminal proceedings against any person, the husband or wife of such person, respectively, shall be a competent witness.*

While this being the law, the husband of Pw1 has got every right to file an affidavit in support of the case and the affidavit filed by him cannot be held as incompetent. Apart from this an affidavit can be filed by any person, who is conversant with the facts of the case. Thus, the husband of the plaintiff/Pw1 who was examined as witness Pw2 on behalf of the plaintiff is a person conversant with the facts of the case and he is entitled to file an affidavit in support of the case. Further, law provides that a husband may testify for his wife when he has independent knowledge of the facts of the case. Therefore, this court decides that the evidence adduced by Pw2 cannot be struck off based on the contentions of the petitioner in this petition.



In the result, this petition is dismissed. No cost.

Dictated to the typist, transcribed by her, corrected, and pronounced by me in open Court, on the 16th day of October 2025.

District Munsif,(FAC)
Thiruvadanai.

Petitioners' Side Witness and Documents :-

- Nil -

Respondents' side Witnesses and Documents :-

-Nil-

District Munsif,(FAC)
Thiruvadanai.