

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Selvi.A.Keerthana, B.A., L.L.B.,
District Munsif, Ponneri.

Monday, the 23rd day of February 2026.

I.A.No.28 of 2026

In

O.S. NO.347 of 2007

1. Suseelammal
2. Vasantha Rao (died)
3. Swarnakantha Rao (died)
4. Kamalamma
5. K.Amarendra Rao
6. K.Lakshmi Narasu
7. Gomathi
8. S.K.Muktha
9. K.Chiranmaya
- 10.A.Jayakumar
- 11.A.Babu
- 12.Nuttaki Nageshwara Rao
- 13.Surya Narayana Rao
- 14.Venkadaramana Rao
15. Vijaya Narasimha Rao

..... Petitioners/Defendants

Versus

1. P.Dasaratharama Reddy (died)
2. P.Anushya
3. P.Jalandar
4. D.S.Rajini
5. S.Chitra

..... Respondents/Plaintiffs

This petition came up before me for final hearing on 20.02.2026 in the presence of Mr.R.Kalamegam, Learned counsel for the petitioners and Mr.E.Prabu, Learned counsel for the Respondents. Upon hearing the arguments made by the learned counsels for the petitioners and the respondents, and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This application is filed under Order 3 Rules 1 and 2 with Section 151 of CPC to permit the Power of Attorney holder of the 12th defendant to appear, depose evidence mark documents and conduct further proceedings on behalf of the 12th defendant in the above suit.

2. Brief averments of the affidavit filed by the petitioners are as follows:

The petitioners submit that the suit in OS.No.347 of 2007 has been filed for declaration and permanent injunction in respect of the suit schedule property and the suit is now pending and posted for defendants' side further evidence. The self-attested copy of the special power of attorney dated 06.02.2026 executed by the 12th defendant in his favour at Ponneri, which was duly attested by Notary public on same 11.02.2026 be read as part and parcel of the above petition affidavit, a xerox copy of the same has been arrived along with. The 12th defendant is a senior citizen, suffering from high blood pressure, knee joint problems and has been continuous medical treatment from the year 2020 onwards. He is bed ridden and unable to move out of his residence. Therefore he had executed a Special Power of Attorney in his favour, authorizing to appear, depose evidence, mark documents and conduct further proceedings on his behalf. A party to the suit is entitled to appear and act through a recognized agent or Power of Attorney holder this court has ample power. Hence this petition.

3. Brief averments of the counter filed by the respondents/plaintiffs are as follows:

The 3rd respondent submit that the above petition was filed by a third party to the suit to permit him to conduct the case on behalf of the petitioner/12th defendant is not maintainable. The power of attorney enclosed with the above petition is deficitely stamped and therefore the said alleged power deed is legally inadmissible and the petition filed based on the insufficiently stamped document is legally not maintainable. The power of Attorney was executed on 06.02.2026.

The Power agent cannot depose evidence on behalf of the principal. Only from the date of execution of power of attorney the agent can act on behalf of the principal. The agent cannot speak about the facts personal to the knowledge of the principal, hence even on this ground the petition is not maintainable. The alleged agent is not a family member of the petitioner/12th defendant as per the definition of the Stamp Act and Registration Act and therefore the Stamp Duty payable in respect of the Power of Attorney executed in favour of sister's son attracts Stamp Duty of Rs.1000/- and the Power of Attorney Deed was drawn only on Rs.100/- NJS and therefore the document is inadmissible for being deficiently stamped. Even in respect of family member the Stamp Duty payable is Rs.1000/- as per the Indian Stamp Act. Hence on either way the document is deficiently and legally inadmissible. The petition filed based on inadmissible document and therefore the petition is legally unsustainable and liable to be dismissed.

4. Evidence :

Neither the petitioners nor the respondents have placed any oral or documentary evidence before this court.

5. Point for determination :

Whether this petition can be allowed or not.

6. Discussion and Findings :

6.1. Heard. Records perused. The present application has been filed by the petitioners who are defendants in the suit which has been filed for the relief of declaration and permanent injunction. The suit currently is in the stage of further evidence on the side defendants. At this stage, the present petition has been filed seeking to examine one Mr.Kishore, who is the power agent of the 12th defendant, as he is a senior citizen, he could not appear before this court and depose due to various health ailments. Power of attorney given in favour of the agent is also annexed with the affidavit.

6.2. On the other hand, the respondents/plaintiffs' objects to this petition stating that the power of attorney is deficitly stamped and hence inadmissible. The power of attorney cannot depose evidence on behalf of the principal. The alleged agent is not a family member of 12th defendants, therefore it has to be paid on Rs. 1000/- stamp paper.

6.3. In the circumstances, this court upon perusal of the Power of Attorney Deed, it can be ascertained that the 12th defendant had duly executed a Deed of Power of Attorney dated 06.02.2026 in favour of Mr.Kishor K.R., the petitioner herein in order to prosecute the suit as the 12th defendant finds it difficult to appear before this court frequently. However the respondent had contended that the petitioner being a power agent of the 12th defendant is not in possession of the suit property.

6.4. This court upon perusal of the above Power of Attorney Deed finds that the Power Agent is none other than the nephew of the 12th defendant. In such circumstances, the power agent would necessarily be aware of the subject matter and the facts which arose for the cause of action to institute the suit. Moreover this court is of the view that in order to be appointed as a power agent in a suit for permanent injunction there is no hard and fast rule that the power agent shall be in possession of the suit property and hence the defence of the respondent does not find any merits before this court. Therefore this court is of the considered view that the petitioner having been appointed as power agent by the 12th defendant in order to prosecute her suit, due to her ill health is a considerable reason and this court does not find any flaws regarding the same. In light of the discussions made above, this court is of the considered view that the petitioner is entitled to depose as a power agent to the 12th defendant in order to prosecute the suit.

7. **Result:**

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

Dictated by me to the stenographer, directly typed by her in her desktop and corrected and pronounced by me in the open court, on this the 23rd day of February 2026.

**DISTRICT MUNSIF
PONNERI**

Both side witnesses and documents:- NIL

**DISTRICT MUNSIF
PONNERI**

Fair/ Draft Order
I.A.No.28/2026
O.S.No.347/2007
Date:23.02.2026
DMC,PNI.