

In the Court of Subordinate Judge, Aruppukottai

**Present : Thiru. V. Ramalingam, B.Sc., B.L.,
Subordinate Judge, Aruppukottai.**

I.A.No.1/2023 in A.S.No.14/2022

Wednesday, the 7th Day of February 2024

1. Poonkodi(Died)
2. S. Vairamuthu
3. Eswarthangam
4. Minor. Visvadarani ... Petitioners/Appellants
(Minor 4th Appellant represented through her
father and next friend the 2nd Appellant herein)

/ Vs/

1. M. Thangavel
2. Vijaya ... Respondents/Respondents

This Application came up for final hearing before me on 02.01.2024 in the presence of Thiru. Michael Bharathi, Advocate for the Petitioners and Thiru.N. Solairaj, Advocate for the 1st Respondent and 2nd Respondent remained exparte and upon hearing the arguments on both side and upon perusing the records, having stood over till this date for my consideration, this Court passed the following

ORDER

1. This Application has been filed by the Petitioners/Appellants Under Order 3 Rule 1,2 and Section 151 CPC to permit the 2nd Petitioner to appear and act on behalf of 3rd Petitioner as an agent/Power of Attorney in A.S.No.14/2022.

2. Brief averments of Petition : -

The 1st Petitioner/1st Appellant is wife of 2nd Petitioner and she died intestate on 22.01.2021 leaving behind the 2nd to 4th Petitioners as her legal heirs. Deceased 1st Petitioner was the 2nd Defendant in the suit and since she died, after passing of decree and judgment, the 2nd to 4th Petitioners have preferred appeal in A.S.No.14/2022. The 3rd Petitioner is in London due to his avocation and he has appointed the 2nd Petitioner as a Power of Attorney under the registered General Power of Attorney date 18.08.2022 in Document No.140/2022 in the file of Joint Sub Registrar No.4, Madurai to engage Pleader or Advocate to engage or to conduct Civil and Criminal

Proceedings and other legal proceedings to file vakalat, statement and counter to defend the case, to make compromise, to receive compensation, to pay necessary fees charges or any other expenses incurred, to prefer writ Civil Miscellaneous proceedings, Civil Revision Petition if necessary in respect of properties to be purchased in his name. So, as a Power of Attorney of the 3rd Petitioner, the 2nd Petitioner has filed change of vakalat and an affidavit on behalf of 3rd Petitioner and the 2nd Petitioner has to be permitted to represent on behalf of the 3rd Petitioner in the pending appeal in A.S.No.14/2022. Hence, this application is to be allowed.

3. Brief averments of Counter of 1st Respondent:-

The genuinity of Power of Attorney deed is to be proved by the Petitioners. The Power of Attorney deed is not legal maintainable. In that deed, it is not mentioned as power has given to conduct the case. Appeal has been filed before execution of power deed. The Power deed is not executed to conduct the appeal. Hence, this application has to be dismissed.

4. Point for consideration in this Application is whether this Petition is to be allowed or not?

5. Point:-

Heard both sides. Perused available records.

6. The Petitioners have filed this Application to permit the 2nd Petitioner to appear on behalf of 3rd Petitioner as power of attorney in A.S.No.14/2022. Eventhough, the 1st Respondent has vehemently opposed the Petitioner's case, he has not stated in his counter as what kind of prejudice would cause if at all this application is allowed. Further, the 1st Respondent has not stated any strong objection in his counter. Hence, this court feels that a fair opportunity will be given to the Petitioner, since this is court of first instance and the reason stated in the application is acceptable. Hence to putforth both side case before this court to decide the suit on merit, this court grants opportunity to the Petitioner.

7. In the result, this application is allowed. No cost.

Dictated to the Stenographer and transcribed and typed by her in the computer directly and after correction, this Order is pronounced by me in the Open Court this the 7th day of February 2024.

Subordinate Judge,
Aruppukottai.

Witnesses examined on the side of the Petitioner, Respondents:-
Documents marked on the side of the Petitioner, Respondents:-

Nil
Nil

Subordinate Judge,
Aruppukottai.

Sub Court, Aruppukottai
I.A.No.2/2023 in A.S.No.14/2022
Order dated: 07.02.2024