

#### ORDERS ON I.A No.4

The plaintiff has filed the suit for recovery of loan along with interest. Wherein the suit the plaintiff has filed I.A. No.4 under Order III Rule 2 of CPC, sought permission to appoint the power of attorney holder to contest/plead/appear in the case on behalf of the plaintiff. The application supported by the affidavit. Wherein the affidavit, it contended, the plaintiff has filed the suit for recovery of money against the defendant. The plaintiff has executed the General Power of Attorney in favour of her husband Sri. Manjunath Mahendrakar to plead and appear in the above case on her behalf at before the court as she not able to attend the above case due to her personal issues. As such she has filed the application sought permission by the court to contest the case of the plaintiff through her attorney holder. On these grounds she prayed for allowed the application.

2. In against the application, the defendant has filed an objection and he stringently oppose to allowed the application. Wherein the objection he contended, the contents of application is wholly false, frivolous, vexatious. The application not maintainable either in the law or on facts and the same liable to be dismissed. The plaintiff has filed the suit for recovery of money through the suit itself utterly barred under the provisions of law of limitation. The above matter is already posted for plaintiff's evidence. Already issues have been framed and now at this belated stage the application filed which devoid its merits and delay in tactics. There is no reasons mentioned in the supporting affidavit to allow the application. On these grounds the defendant prayed for dismissal of the application with exemplary costs.

3. Heard the argument and perused material on record.

4. The point that arises for my consideration is:-

"Is the applicant entitled the relief sought in the application?"

5. My answer to the above point is in the affirmative for the following:-

### **REASONS**

6. It is of net case of the plaintiff that due to her personal issues, she unable to attend the court regularly. Accordingly the plaintiff sought for the permission to prosecute the case through her GPA holder.

7. On the contrary, the defendant contended that, the application not maintainable either in law or on facts. The plaintiff has filed the present suit for recovery of time bared debt. The plaintiff have filed the present application only with intention to devoid the merits of suit and also just for the reason delay in tactics. No reasons mentioned in the affidavit to allow the application.

8. On summarizing the facts involved on the case on hand, the suit of the plaintiff one for recovery of money. The relationship between the plaintiff and GPA holder not disputed by the defendant. Further it is not case of the defendant there is no personal knowledge involved required to adjudicate. Accordingly, an cardinal assertion of the plaintiff over the application have not specifically denied and no specific objection put forth on record to denied the case of plaintiff. On the contrary the defendant have contended the plaintiff have filed the present application after deliberated delay. The defendant have also contended no specific reason put forth by the plaintiff to filed the present application. Wherein the affidavit the plaintiff has contended that due to her personal issues she could not able to appear at before the court regularly. The same such reason herein remains as uncontested as since the defendant have not denied the same specifically. Admittedly the plaintiff is an married women and accordingly she has her own difficulties to manage the family affairs and would not possible to appeared at before the court regularly. Also not case of the defendant loan transaction in between the plaintiff and defendant is one with personal and the plaintiff herself have not only that such personal knowledge in that regard. When such being the case the reason assigned in the application stands satisfied. Further the objection have not established the very application of the plaintiff/applicant have legally barred by any of the law. With this background of observation I answer the point raised for my consideration in the affirmative and proceed to pass the following:-

**ORDER**

I.A. No.4 filed by the applicant/plaintiff hereby allowed, consequently the plaintiff have been permitted to prosecuted the case on her behalf at through her attorney holder Manjunath Mahendrakar.

For plaintiff evidence by 31.01.2024.

(Onkarappa.R)  
V ACC &SJ, Bengaluru.

