

KABG040014622022



11.08.2026

O.S.No.875/2022

ORDER ON I.A.NO.III

The counsel for defendant has filed the application U/O.III Rule 1 and 2 R/w. Sec. 151 of C.P.C. seeking permission of the Court to permit the S.P.A. holder of defendant to appear on behalf of defendant to proceed with the case.

2. In the affidavit accompanying the application, the SPA Holder of defendant has stated that the defendant is not keeping good health and due to his old age problems, he is having hearing problem and hence unable to attend the Court on all dates of hearing. That the SPA Holder of defendant has knowledge about facts of the present case and he is intending to prosecute the case further as SPA

Holder of defendant. Hence, prayed to allow the present application.

3. On the other hand, the learned counsel for plaintiff has submitted no objection to allow the said application.

4. Heard the arguments of defendant. Perused the application, affidavit, and materials on record. The plaintiff has filed this suit for the relief of Permanent Injunction against defendant. When the case was set down for defendant evidence, the SPA Holder of defendant has filed this application seeking permission to proceed with the case on behalf of defendant. I feel it appropriate to refer the Judgment of Hon'ble High Court of Karnataka in **Sajida Banu Vs. Halema Banu** reported in **2014(4) KCCR 3463** wherein the Hon'ble High Court of Karnataka has held '*when the statute confer power on party to appear in person or through recognized agent (PA Holder) or through a pleader, statute has to be honored. The question of Court granting permission to a party to prosecute the matter through PA*

Holder does not arise. He should be permitted as a matter of right. Once a power of attorney holder enters the witness box and gives evidence whether that evidence has to be acted upon, whether it is direct or hearsay evidence, is to be decided by the trial Court at the time of appreciation of evidence.' In view of dictum of the High Court, party as a matter of right can appear in person or through the recognized agent and the statutory provision has to be honored with. In the case on hand, the application filed by the counsel for defendant seeking permission for the SPA Holder of defendant to proceed with the case needs to be allowed in view of statutory provision as well as above mentioned decision. The defendant has stated in the Special Power of Attorney that SPA Holder is his grandson and due to his old age, the defendant is unable to attend the Court. The cause title of the plaint also reveals that at the time of filing the suit in the year 2022, the defendant was aged about 75 years. As such, the present application

deserves to be allowed. Hence, I proceed to pass the following :

ORDER

The application i.e., I.A.No.III filed by applicant/SPA holder of defendant U/O.III Rule 1 and 2 R/w. Sec.151 of C.P.C. is hereby allowed.

The defendant is permitted to appear through his SPA holder i.e., his grandson by name Shri. Umesh S. Karvinkoppa. The said SPA holder is permitted to proceed with the case on behalf of defendant. However, the said SPA holder shall be conversant with the facts of the case and he shall be in a position to answer questions posed by the other side.

For defendant evidence by 25.08.2026.

(Smt. Preeti L. Malavalli)
Prl. Civil Judge & JMFC, Belagavi.