

KABG040028392018



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JMFC,
AT : BELAGAVI.**

PRESENT : Smt. Preeti L. Malavalli, B.B.A.,LL.B (Hons.)
Prl. Civil Judge & JMFC.,
Belagavi.

DATED THIS THE 17TH DAY OF DECEMBER-2025

ORIGINAL SUIT NO.1266/2018

PLAINTIFF :

1)	Smt. Parawwa W/o. Parappa Betageri.
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Vs.

DEFENDANTS :

1)	Shri. Anant @ Prakash S/o. Puttopant Kulkarni and another.
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PARTIES TO I.A.NO.VIII

Applicant/Plaintiff :

1)	Smt. Parawwa W/o. Parappa Betageri.
	(By Shri. P. K. Bagi, Adv.)

Vs.

Opponents/Defendants :

1)	Shri. Anant @ Prakash S/o. Puttopant Kulkarni and another.
	(Defendant No.1 by Shri. S. C. Jain, Adv. & Defendant No.2 by Shri. S. H. Yadawad, Adv.)

ORDER ON I.A.NO.VIII

The applicant/plaintiff has filed the present application U/O.III Rule 2(a) of C.P.C. seeking permission of the Court to permit her to engage her power of attorney holder on her behalf to proceed with the case.

2. In the affidavit accompanying the application, the plaintiff No.1 has stated that the present suit is filed by her against the defendants seeking the relief of Specific Performance of Contract. That she is suffering from old age ailments such as chronic diabetes and high blood pressure and she has become weak. That her hearing capacity has also become dull and she is unable to come to court and attend the case and therefore she has executed special power of attorney in favour of her nephew Sanjay Sannappa Betageri to represent her in the suit and to give evidence. On these grounds, she has prayed to allow the present application.

3. On the other hand, the defendant No.2 has filed objection contending that the present suit being a suit for Specific Performance of Contract alleged to have been executed by defendant No.1, the power of attorney holder cannot depose regarding the facts which are exclusively within the knowledge of the principal. That the GPA holder is stranger and he cannot depose regarding the facts which are within the knowledge of plaintiff. On these grounds, the defendant No.2 has prayed to reject the present application.

4. Heard the arguments on both sides. Perused the application, affidavit, objection and materials on record.

5. The following points arise for consideration :

POINTS

- i) Whether the applicant/plaintiff has made out sufficient grounds to allow the I.A. No.VIII ?*
- ii) What order ?*

6. My findings to the above points are as follows :

Point No.1 : In the Affirmative,

**Point No.2 : As per final order
for the following :**

REASONS

7. **Point No.1** : The plaintiff has filed this suit for the relief of Specific Performance of Contract. When the case was set down for plaintiff evidence, the plaintiff has filed this application seeking permission to proceed with the case through SPA holder. 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 plaintiff for proceeding with the case through SPA holder requires to be allowed in view of statutory provision as well as above mentioned decision. However, the objection of defendant No.2 that the SPA Holder is stranger and

he cannot depose regarding the facts within the knowledge of plaintiff, can be met by imposing suitable condition. Accordingly, I answer **Point No.1 in the Affirmative.**

8. Point No.2 : For the aforesaid reasons, I proceed to pass the following :

ORDER

The application i.e., I.A.No.VIII filed by plaintiff U/O.III Rule 2(a) of C.P.C. is hereby allowed.

The plaintiff is permitted to appear through her SPA holder i.e., her nephew by name Sanjay Sannappa Betageri. The said SPA holder is permitted to proceed with the case on behalf of plaintiff. 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.

(Dictated to the stenographer directly on computer, revised by me & after corrections pronounced in the open Court on this the 17th day of December-2025.)

**Prl. Civil Judge & J.M.F.C,
Belagavi.**