

ORDER ON I.A. No.4 AND 5

The petitioner has filed I.A. No.4 under Order III Rule 2 of CPC seeking permission to allow her husband Sangayya Siddayya Hiremath, representing her in the present proceedings as her power of attorney holder.

Further, the I.A. No.5 filed under Order VII Rule 14 (3) of C.P.C., along with memo with special power of attorney seeking permission to produce the same.

2. In the affidavit filed in support of the application, the petitioner has stated that she has filed the petition for awarding compensation due to the injury sustained by her in the road traffic accident. She further stated that she unable to walk and stand for long time, unable to speak properly and unable to travel frequently. Therefore she is unable to attend before this court on all hearing dates and hence she has executed the Special Power of Attorney

in favour of her husband namely, Sangayya Siddayya Hiremath, for proceeding with the present case. Further she stated that at the time of filing the petition due to unavoidable circumstances she unable to produce the documents. The said documents are important and the same are very helpful to the court for adjudicating the matter effectively. If the applications are allowed, no hurdle would be caused to the other side. On the contrary, she will be put to irreparable loss. Hence the applications.

3. On the other hand, the learned counsel for respondent No.2 has filed objections contending that, there was 06 days inordinate delay in registering the complaint and the said delay was not properly explained by the complainant. Further contended that the disability certificate and another certificate are not showing mental and physical disability that the petitioner is unable to give evidence, it appears that the petitioner is avoiding to lead evidence and face the cross-examination and to

produce the documents. Therefore, there are no good grounds and facts to give permission to try the petition through SPA holder. These above all facts are showing that the petitioner is escaping to face the Court proceedings. Hence prayed for dismissal of the I.As.

4. Heard the learned counsel for both sides. Perused applications, affidavits and the material available on record.

5. The points that arise for consideration as follows:

1) Whether the petitioner has made out sufficient grounds to permit her husband, Sangayya S/o Siddayya Hiremath, to represent her as power of Attorney holder in the present proceedings ?

2) What order?

6. My findings on the above points are as under:

Point No.1: In the Affirmative

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

REASONS

7. **Point No.1:-** The petitioner has sought permission for representation through her husband as Power of Attorney holder on the ground of she is unable to walk and stand for long time, unable to speak properly, unable to travel frequently and unable to attend before this court. The reasons assigned in the affidavit disclose that the petitioner is unable to personally attend the Court, and effectively prosecute the proceedings due to her physical condition.

8. On the other hand, the respondent No.2 has contended that there was 06 days inordinate delay in registering the complaint and the said delay was not properly explained by the complainant. Further contended that the disability certificate and another certificate are not showing mental and physical disability that the petitioner is unable to give evidence, it appears that the petitioner is avoiding to lead evidence and face the cross-examination and to

produce the documents. Therefore, there are no good grounds and facts to give permission to try the petition through SPA holder. Hence prayed for dismissal of the application.

9. In view of the above rival contention and submission it is worthwhile to refer the provisions of Order III Rule 1 and 2 of CPC which permits a party to appear, apply and act through a recognized agent or duly authorized Power of Attorney holder. The request made by the petitioner appears to be bonafide and intended to facilitate effective adjudication of the case. No prejudice would be caused to the respondents if the petitioner is permitted to be represented through her duly authorized power of attorney holder. However, it is made clear that permission to represent the petitioner through a power of attorney holder does not dispense with the requirement of the petitioner entering the witness box wherever her personal knowledge of the fact is necessary, subject to her physical condition and the provisions of law governing evidence. The evidentiary value of the testimony

of the power of attorney holder shall be considered at appropriate stage in accordance with law. Accordingly, the point No.1 is answered in the ***Affirmative.***

10. **Point No.2:-** In view of the above findings and discussion made on point No.1, I proceed to pass the following:

ORDER

I.A. No.4 filed under Order III Rule 2 of CPC and I.A. No.5 filed under Order VII Rule 14 (3) of C.P.C., are hereby allowed.

The petitioner is permitted to represent by her husband, Sangayya S/o Siddayya Hiremath, as her duly constituted Power of Attorney holder.

The power of attorney holder is permitted to appear, act and conduct the proceedings on behalf of the petitioner, in accordance with law.

No order as to costs.

Call on for evidence of petitioner by 24-06-2026.

(Ravi Babu Chawan)
Senior Civil Judge, Bailhongal.