

21-11-2019

ORDER ON I.A.NO.VI

The plaintiff/applicant has filed I.A. No.VI U/Order 3 Rule 2 R/W Sec 151 of CPC for seeking permission to prosecute the case through General Power of Attorney Holder, by allowing this application in the interest of justice.

2. In the sworn affidavit, the plaintiff stated that this they filed this case against the defendants for the relief of partition and separate possession. It is further contended that due to old age and health problems, he is unable to attend regularly before this Hon'ble court. Therefore, he is appointing his son i.e. Sri. Laxman Balappa Huggi as their Power of Attorney Holder to prosecute the suit on their behalf as he is conversant with the facts of the suit. Hence prayed to allow this application in the interest and justice of equity.

3. On the other hand, the counsel for the defendants No.5, 6, 11 and 12 filed objection by denying the entire claim of plaintiffs. Further they contended that the Power of Attorney Holder has not known the facts of suit proceedings. The plaintiff is able bodied person and he is able to prosecute the matter. The application filed by the plaintiffs is not maintainable and prayed to reject the application.

4. Heard and perused,

5. I have carefully gone through the application, affidavit and objection submitted by the plaintiff and defendants. In the sworn affidavit, the plaintiff has urged that, he is old age and ill-health, he is not in position to attend the court and give

evidence on every hearing date. Hence, he sought for permission of this court to prosecute the case on his behalf. On perusal the suit of the plaintiff is for partition and separate possession. The power of Attorney Holder is acquittance with the facts of the case. The plaintiff made out sufficient grounds to appoint Sri. Laxman s/o Balappa Huggi as General Power of Attorney Holder for prosecution of this case. More so, the age of the plaintiff is old aged, as stated in the cause title of the plaint. Normally they are suffering from old age deceases and caused inconvenience to them in prosecuting the case. More importantly, the GP Holder is son of plaintiff who is conversant with all the facts in respect of suit schedule property. Hence, the objection filed by defendants is over ruled. The applicant has made out ground to allow the application at this juncture. If the application is allowed, no hardship caused to defendants side, on the other hand, it would caused in convenience to the plaintiffs, if the application is not allowed. In the result, I proceed to pass the following;

ORDER

I.A.No.VI filed by the of applicant is hereby allowed.

Under the facts and circumstances no order as to cost.

The General Power of Attorney Holder of plaintiff is hereby permitted to prosecute the case.

(Dictated to the stenographer directly on computer, typed by her, corrected, signed and then pronounced by me in the open court)

Civil Judge and J.M.F.C
Hukkeri.

