

**IN THE COURT OF ADDL. CIVIL JUDGE &
JMFC, JAMKHANDI, AT: JAMKHANDI.**

Present:

Ravindrakumar B. Kattimani, B.A.,LL.B (Spl),

**Dated This, the 18th day of January-2018
O.S.No.8/2017**

Plaintiff:-

1. Shri. Basappa S/o: Shivappa
Todalbagi, Age: 54 years, Occ: Agril
R/o:Kavatagi, Tq: Jamkhandi
Dist: Bagalkot.

(Plaintiff by Sri.V.B.T, Advocate)

// Versus //

Defendants:

1. Shri. Shabbir S/o: Rasulsab
Mujaavar, Age: 48 years,
Occ:Business & Agril, R/o:Telasangh
Tq:Athani, Dist:Belagavi & others...

(Defendant No.1 & 2 by Sri.A.P.K Advocate)

(Defendant No.3 by Sri.J.K.M Advocate)

(Defendant No.4 by Sri.G.S.B Advocate)

:: I.A.NO.IV ::

1. Shri. Mahiboob W/o: Inoddin
Umarani.

Applicant/P.A.holder of defendant No.1

// Versus //

1. Shri Basappa Shivappa Todalbagi.

Opponent/plaintiff.....

:: ORDER ON I.A.NO.IV ::

The defendant No.1 has filed I.A.No.IV U/O.III Rule 2(a) R/w Sec.151 of CPC, in the I.A.No.IV it is prayed that Hon'ble court may kindly be permit the applicant to conduct, prosecute and participate in this case on behalf of defendant No.1 as a power of attorney holder in the interest of justice and equity.

2. The applicant has filed the affidavit in support of I.A.No.IV in the accompanying affidavit it is stated that; the defendant No.1 Shabbir S/o: Rasulsab Mujawar, is his sister's husband has executed a General power of attorney in favour of defendant No.1 on dated 14.08.2017, authorizing to participate in this proceeding and adduce evidence etc., on his behalf as he is not in a position to attend the Hon'ble court due his personal difficulties and temporary absence as now he is residing at Poona. Therefore, the Hon'ble court be pleased to permit the power of attorney holder/defendant No.1 to participate in this proceedings as G.P.A, holder defendant No.1 and adduce evidence etc., on his behalf and submitting this application on the request of

defendant No.1 and all the acts and things done by defendant No.1 are within his knowledge, and the Hon'ble court permit to participate in this case on behalf of defendant No.1 no loss or damage will be caused to any of the parties, otherwise, defendant No.1 will be suffer inconvenience. Therefore, the defendant has prayed to allow the I.A.No.IV.

3. Heard the argument of Sri.A.P.K advocate for defendant No.1 and perused the materials available on record.

4. The following points arise for my consideration as follows;

1. Whether the defendant No.1 made out sufficient grounds to permit the applicant to conduct, prosecute and participate in this case?

2. What order?

5. My answers to the above points are as under;

1. Point No.1:- In the Affirmative

2. Point No.2:- As per final order

for the following;

:: R E A S O N S ::

6. **Point No.1:-** The plaintiff has filed this suit against the defendant for cancellation of sale deed, possession and injunction. In the present application filed by the defendant stating that the defendant No.1 is executed a general power of attorney in favour of the applicant on dtd:14.08.2017 authorizing him to prosecute the case on behalf of defendant No.1. Because the defendant No.1 is not in a position to attend the Hon'ble court due to his personal difficulties and temporary absence as now the defendant is residing at Poona. Perused the document i.e., general power of attorney executed by the defendant in favour of the applicant. At this stage it is necessary to reproduce the Order 3 Rule 2(a) of CPC as follows;

"Recognized agents-The recognized agents of parties by whom such appearances applications and acts may be made or done are---

(a) persons holding powers of attorney authorizing them to make

and do such appearances, applications and acts on behalf of such parties.

(b) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the court within which limits the appearance, application or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts”.

7. The above said provision is very clear that the recognized agents of parties by whom such appearances, applications and acts may be made or done.

8. In the present I.A, the defendant is clearly stated that he is not in position to attend the Hon'ble court due to his personal difficulties and the defendant is now residing at Poona. By considering all these facts it is just and proper to

permit the applicant to conduct, prosecute and participate in this suit on behalf of defendant No.1 as a power of attorney holder. If the I.A.No.IV is allowed no harm will be caused to the plaintiff. Therefore, I am of the opinion that I.A.No.IV filed by the defendant No.1 is deserves to be allowed. Accordingly, I answered point No.1 in the **Affirmative.**

9. **Point No.2:-** For the reasons stated above, I proceed to pass the following;

:: O R D E R ::

The I.A.No.IV filed by the defendant No.1 U/O.III Rule 2(a) R/w Sec.151 of CPC, is **hereby allowed. No order as to costs.**

(Dictated to the Stenographer typed by her script corrected by me and then pronounced in the open court on 18th day of January-2018).

Sd/-

(Ravindrakumar B. Kattimani)

Addl. Civil Judge & JMFC, Jamkhandi.

Order pronounced in the open court

(Vide separate)

:: Order on I.A.No.IV ::

The I.A.No.IV filed by the defendant No.1
U/O.III Rule 2(a) R/w Sec.151 of CPC, is **hereby**
allowed. No order as to costs.

Call on written statement on behalf of
defendant No.1 by

Addl. Civil Judge & JMFC, Jamkhandi.