

ORDERS ON IA No.9

The defendant No.1 has filed this application U/O.III Rule 2(A) of CPC seeking permission to defend the suit through her son to whom she has given the power of attorney to appear and give evidence in this suit. Hence, prayed to allow the application.

The plaintiffs have filed objections stating that, the application is not maintainable either in law or on facts. They have submitted that, the defendant No.1 being healthy woman and capable to appear and give evidence personally, yet she has given power of attorney to her son to avoid cross examination and also cause delay in disposal of the suit. As such the plaintiffs have prayed to reject the application with cost.

Heard the arguments on both sides and Perused the available materials.

The instant suit is filed by the plaintiff for partition and separate possession to award her legitimate share in suit schedule properties. The defendant No.1 has filed written statement and seriously disputed the entire claim of the plaintiffs. The available materials prima facie suggests that, the defendant No.1 is aged about

62 years as such it can be inferred that, she is unable to appear personally before the court. The SPA is none other than her own son as such he is the most competent person to give evidence on behalf of his mother. Therefore, considering the nature of suit age of the defendant No.1 and relationship between her and SPA holder I am of the opinion that, the application is deserve to be allowed. In the result I proceed to pass the following;

ORDER

IA No.9 filed by defendant No.1 U/O.3 Rule 2(A) is allowed and she is permitted to defend the suit through the power of attorney her son Mohammed Burhan. For defense evidence by 18.03.2023.

Senior Civil Judge & JMFC.,
Hiriyur