

ORDER ON IA No.VI

Learned counsel for defendant files IA.No.VI U/O III Rule 1 and 2 of C.P.C, along with memo by submitting SPA dated 10.02.2026 seeking permission to continue the above case on behalf of defendant through SPA holder.

2. The defendant filed application along with affidavit by stating that the defendant is suffering from age related ailments and she could not able to appear before this Court personally. Hence requested to proceed her case through her SPA holder and prays to allow the application.

3. The learned counsel for plaintiffs submits no objection to the said application.

4. Heard both side and also perused the materials available on record.

5. It is no doubt that the SPA dated: 10.02.2026 is admitted and it is notary authenticated document and as per the same the defendant has appointed Sri.D.S. Devendra who is nun other than her husband to prosecute the above suit on her behalf. On perusal of said S.P.A it is apparent that, due to her personal inconvenience and suffering from age related ailments defendant is not able to personally appear before the Court.

6. At this juncture It is necessary to refer Order 3 Rule 1 of CPC wherein the same provides that the party to the suit may appear through their recognized agent or by a pleader appearing,

applying, acting as the case may be on their behalf. It is also relevant here to refer the decision rendered by our Hon'ble High Court in the case of **Sabiulla Bhanu Vs. Khaleema Bhanu** reported in **ILR 2015 Kar 635**, wherein it is held that the Order 3 of CPC does not say that the power of attorney/ party has to take the leave of the Court to proceed with the case or to lead evidence on his behalf through power of attorney and further it is also observed that it is the choice of the party to proceed with the case himself or through power of attorney. Whether the power of attorney has a personal knowledge or not need not to be decided by the Court on allowing or dismissing the application under Order 3 Rule 2 of CPC.

7. Thus on co joint reading of the provision of law, the decision of our Hon'ble High Court referred supra and the contents of the SPA dated: 10.02.2026 it appears that the defendant has executed SPA in favor one Sri Sri. D.S. Devendra as SPA holder, who has also deposed to an affidavit filed in support of the present application. Hence, this Court considers it fit to permit the applicant to prosecute the suit on behalf of the defendant. Hence, the following:

ORDER

I.A.No.VI filed by the applicant U/O
III Rule 1 and 2 of CPC is hereby allowed.

The applicant is hereby permitted
to prosecute the above case on behalf of

O.S.1/2023

the defendant by virtue of SPA dated:
10.02.2026.

For defendant evidence. Call on
11.03.2026.

Sd/-

**C/C Prl. Civil Judge & JMFC,
Mudigere.**