

ORDER ON IA No.IV

Learned counsel for plaintiff files IA.No.VI U/O III Rule 2 R/w Sec.151 of C.P.C, along SPA dated 23.01.2026 seeking permission to continue the above case on his behalf through SPA holder of the plaintiff.

2. The applicant has contends that, the plaintiff is residing far away from the suit schedule property and he could not able to appear regularly before this court and hence prays to allow the application by permitting to prosecute this case through SPA holder.

3. On the other hand defendant filed his objection by contending that, the application is not maintainable and reason stated by the applicant is imaginary and prays to reject the application.

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

5. It is no doubt that the SPA dated: 23.01.2026 is admitted and authenticated before the notary and as per the same the plaintiff has appointed his brother by name Sri.B.Raghu Shetty as SPA holder to prosecute the above suit on his behalf. On perusal of said S.P.A it is apparent that, he is 49 years and due to inconvenient, he could not 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 his or her recognized agent or by a pleader appearing, applying, acting as the case may be on his/her 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: 23.01.2026, it appears that the plaintiff has executed SPA in favor one Sri.B.Raghushetty 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 plaintiff. Hence, the following:

ORDER

I.A.No.IV filed by the applicant U/O
III Rule 2 R/w Sec.151 of CPC is hereby
allowed.

The applicant is hereby permitted
to prosecute the above case on behalf of
the plaintiff by virtue of SPA dated:
23.01.2026.

For further chief of plaintiff by
26.03.2026.

SD/-

**I Addl. Civil Judge & JMFC,
Mudigere.**