

ORDER ON IA No.8

Learned counsel for plaintiff files IA.No.8 U/O III Rule 1 and 2 of C.P.C, along with memo by submitting SPA dated 23.06.2025 seeking permission to continue the above case on his behalf through SPA holder of the plaintiff.

2. The plaintiff filed application along with affidavit by stating that he is not able to prosecute the case due to his personal inconvenience and ill-health. Hence he is giving power of attorney to his son to proceed with the case on his behalf and prays to allow the application.

3. The defendants submits no objection to the said application taken as not filed.

4. Heard the counsel for plaintiff and also perused the materials available on record.

5. It is no doubt that the SPA dated: 23.06.2025 is admitted and it is notary authenticated document and as per the same the plaintiff has appointed Sri.M.G. Dharanesh who is non other than his son to prosecute the above suit on his behalf. On perusal of said S.P.A it is apparent that, due to his personal inconvenience and ill-health plaintiff 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 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: 23.06.2025 it appears that the plaintiff has executed SPA in favor one Sri.M.G. Dharanesh 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.VIII 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
the plaintiff by virtue of SPA dated:
23.06.2025.

For plaintiff evidence

Call on 30.07.2025.

Sd/-

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