

ORDER ON IA No.XV

The present application has been filed by the applicant U/O III Rule 1 and 2 of C.P.C, along with memo by submitting SPA dated 29.06.2026 seeking permission to continue the above case on behalf of plaintiff No.2 through SPA holder.

2. The SPA holder of plaintiff No.2 filed application along with affidavit by stating that the plaintiff No.1 is grand mother and plaintiff No.2 is his mother and the plaintiff No.1 was dead and the plaintiff No.2 is suffering from ill-health. Further it is submitted that the plaintiff No.2 could not able to appear before this Court physically to proceed further in the present case and prays to allow the application.

3. The learned counsel for defendants 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: 29.06.2026 is admitted and it is notary authenticated document and as per the same the plaintiff No.2 appointed Sri.Vidyananda who is nun other than the son of plaintiff No.2 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 ill-health

plaintiff No.2 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: 29.06.2026 it appears that the plaintiff No.2 have executed SPA in favor one Sri Sri.Vidyananda 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 No.2. Hence, the following:

ORDER

I.A.No.XV 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 No.2 by virtue of SPA dated:
29.06.2026.

Re-issue suit summons against Lrs
of defendant No.4, if PF paid.

Call on 22.08.2026.

Sd/-

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