

ORDER ON I.A. No. III

The plaintiff has filed I.A. No.III U/Order III Rule 2 R/w Sec. 151 of CPC to permitting the plaintiff to represent the suit through the GPA holder.

2. In the affidavit annexed to the I.A. No.III the GPA holder of the plaintiff company stated that, the plaintiff company was represented by its earlier Manager-(Legal and compliance) by name Vijaya Karnad. The said Vijay Karnad has retired from service of Tata Coffee Limited and therefore they have been appointed as Manager (Legal) of the Tata Coffee Limited and the company has constituted him as attorney under the deed of power of attorney dated 6/6/2023 empowering him to represent and prosecute the above suit on behalf of Tata Coffee Limited. Under the said circumstances / situation of the case, it is necessary to seek leave of this Hon'ble court to permit him to represent the Tata Coffee Limited, the plaintiff in the suit and to permit him to prosecute the above suit and to adduce evidence on behalf of the Tata Coffee Limited. If he is not permitted to represent the plaintiff the company will be put to untold hardship, inconvenience and on the other hand defendants will not be put to any sort of inconvenience.

3. On the other hand defendants filed detailed objection to the I.A.No.III. The application filed by the plaintiff is vexatious, frivolous and not maintainable either at law or on facts. The present application is filed just to drag the proceedings and to defer justice to the defendants. The present application is change the nature of the suit hence is not maintainable. If the present I.A. is allowed, defendants will be put to great hardship, loss and inconvenience, whereas no hardship, loss and inconvenience will be caused to the plaintiff, if I.A. dismissed. Hence defendants prays to dismiss the application.

4. I have heard arguments by both counsels for plaintiff and defendant.

6. The following points arise for consideration of this court: -

- (i) Whether the applicant has made out sufficient grounds to allow the application?
- (ii) What order?

7. My findings are:

Point No.1: In the Affirmative

Point No. 2: As per final order for the following: -

R E A S O N S

8. POINT NO. 1: - The plaintiffs filed suit against the defendants for the relief of declaration that the plaintiff is the absolute owner of the plaint 'A' schedule property and for possession of plaint 'B' to 'E' schedule property from the defendant No.1 to 7 respectively and for recovery of Rs.15,000/- from each defendant No.1 to 7 and also for the relief of permanent injunction.

9. The present application is filed by the plaintiff permitting the applicant to represent their suit through the special power of attorney holder of plaintiff company. It is not obligatory on the part of the party to a litigation to appear in person, unless the law so requires. It is the general principle that the party could prosecute or defend a legal proceedings through a power of attorney holder or even a pleader. Therefore when the statute confers such a power on a party, it has to be honoured. The question of granting permission to a party to prosecute the matter through a power of attorney holder or a pleader would not arise. The court cannot prevent a party from prosecuting the litigation or defending it through a power of attorney holder or a pleader. In this regard this court relief on the decision report in 2014 (4) KCCR 3463 in Sajida Banu V/S Halema Banu and others. The principle laid down in the said decision is aptly applicable to the case on hand. The party could prosecute or defend a legal proceedings through

a power of attorney holder. In view of the above discussion I answered point No.1 in the Affirmative.

10. POINT NO. 2 : - For the aforesaid reason and discussion, I proceed to pass the following: -

O R D E R

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

Case posted for evidence of plaintiff.
Call on 02-03-2024.

**(JAYAPRAKASH.V.)
Civil Judge & JMFC,
Mudigere.**