

ORDER ON I.A. No.V

The plaintiff has filed I.A.No.V U/Order III Rule 1 and 2 R/w Sec. 151 of CPC to permitting plaintiff to prosecute the suit through his GPA holder.

2. In the affidavit annexed to the I.A.No.V the GPA holder of plaintiff stated that, one Mr. N.B. Umesh was constituted as attorney of plaintiff under the GPA dated 26.06.2024 for conducting the present suit. The said GPA Holder for some personal reasons could not able to appear before the court to conduct the suit. Hence the plaintiff has given GPA to the present applicant to prosecute the case. The earlier GPA has been canceled by plaintiff. Hence the applicant prays to allow the application.

3. On the other hand defendants filed objection to the I.A.No.V. The defendant stated that plaintiff has not made out proper reason for prosecute the case through the power of attorney holder. The plaintiff has filed the present application only with an intention to drag on the proceedings. Hence the application is liable to be rejected. Hence defendant prays to dismiss the application.

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

5. 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?

6. 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

7. POINT NO. 1: - The plaintiff filed suit against defendants for specific performance of sale agreement dated 24.03.2021. The present application is filed by plaintiff permitting the applicant to represent him through the GPA holder. 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 relied 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.

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

O R D E R

I.A.No.V filed by the applicant under Order III Rule 1 and 2 R/w Sec 151 of CPC is hereby allowed. The GPA holder is permitted to prosecute the case on behalf of the plaintiff.

Case posted for evidence of plaintiff. Call on 19.06.2025.

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