

KACM510002662022



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND  
JMFC AT N.R.PURA, ITINERATE AT KOPPA**

**Present:** Smt.B.S.Rayannawar, B.A., L.L.B,  
Senior Civil Judge & JMFC.,  
N.R.Pura, Itinerate at Koppa.

**Dated this the 2<sup>nd</sup> day of December, 2023**

**OS No.23/2022**

Mrs. Girija Dhruva  
Represented by GPA Holder  
Sri.K.S.Rajagopala

...Plaintiff.

V/s.

**AND:**

MR. H.M.Ramachandra and others

...Defendants.

**I.A.NO. I and II**

Mrs. Girija Dhruva  
Represented by GPA Holder  
Sri.K.S.Rajagopala

...Applicant/Plaintiff.

V/s.

**AND:**

MR. H.M.Ramachandra and others

...Opponents/Defendants.



**ORDERS PASSED ON IA No.I AND II**

Learned counsel for the plaintiff filed IA No.I under Order III Rule 2 (a) R/w Section 151 of CPC seeking to permit her GPA holder to file and prosecute the above suit on behalf of the plaintiff.

Also filed IA No.II under Order 6 Rule 14 (A) of CPC seeking to submit the above mentioned pleading address is correct, as per the document maintained by the plaintiff.

2. The applications are supported with the affidavit of Power of Attorney holder, wherein it is stated that, he is the Power of Attorney holder of the plaintiff in the said suit. He conversant with the facts of the case he deposing to.

3. Further stated that, the plaintiff has filed this suit against the defendants for specific performance of the Sale Agreement dated 19.07.2018 with respect of the Schedule Property against the Defendant for the Judgment and Decree, directing the defendants to execute the register



the sale deed in favour of the plaintiff with respect of the Schedule property. The plaintiff is aged about 80 years and presently residing in Bangalore at the address stated in the cause title. Due to her age and other ailments she is personally unable to appear and prosecute the above suit. To prevent the absence and infringing the proceedings in the said suit and statutory acts before this court and other authorities, the plaintiff has executed a G.P.A. in his favour to file and prosecute the above suit on her behalf. The plaintiff has good case on merits. If the accompanying application is not allowed. The plaintiff will be put to irreparable loss and hardship and justice will suffer and the accompanying suit will become infructuous. Hence prays to allow the application.

4. Defendants not filed any objections to I.A.No.I and II.



5. Heard both respective counsels. After hearing the arguments and on perusal of the case papers the points that arise for consideration are as hereunder:

**POINTS**

1. Whether the plaintiff made out sufficient grounds to allow her to appear through her GPA Holder?
2. What order ?

6. The findings on the above points are as hereunder:

Point No.1: In the affirmative

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

**REASONS**

7. **Point No.1:** This is the suit filed by the plaintiff against the defendants for the relief of specific performance of contract. Plaintiff filed I.A.No.I and II with an prayer to permit the plaintiff to prosecute the case through her GPA Holder, it is the contention of plaintiff that the plaintiff is 80 years old and residing at Bangalore, and due to her old age and other ailments she is personally unable to appear and prosecute the above suit. If this application is allowed



there is no harm to other side. Otherwise applicant will be put to untold hardship and injustice, hence prays to allow the application.

8. Learned counsel for Defendant No.1 to 4 submits that, the plaintiff is not appeared before the court, the defendants have not seen the plaintiff, hence they are in a doubt that whether the plaintiff is alive or not. Hence application is not maintainable both the law or facts of the case. Hence prays to reject the applications. But the defendant No.1 to 6 not filed any written objections to I.A's.

9. Learned counsel for plaintiff submits that the plaintiff is alive and he is ready to present the plaintiff through Video Conference if it required.

10. Order III Rules 1 and 2 of CPC contemplates that any appearance, application or act in or to any court required or authorized by law to be made or done by a



party in such court may except where otherwise expressly provided by any law for the time being in force be made or done by the party in person, or by his recognize agent or by a pleader appearing, applying or acting, as case may be on his behalf. Therefore whatever a party to a litigation can do in person, can be done by his recognized agent or by pleader as the case may be.

11. Hence in the present case it is the contention of applicant that, the plaintiff is residing at Bangalore and she is aged about 80 years and hence not in position to attend the court, hence, in the considered opinion of this court, applicant made out grounds satisfied all the requirements for the power of attorney to come on record and to conduct litigation on behalf of the plaintiff. Hence the GPA holder is permitted to conduct the suit on behalf of the plaintiff subject to the terms of the power of attorney. Accordingly, **point No.1 is answered in the affirmative.**



12. **Point No.2:** In view of the reasons discussed above this court proceeds to pass the following:

**ORDER**

IA No.I filed under Order 3 Rule 2(a) R/w Section 151 of CPC and IA No.II filed under Order 6 Rule 14(A) of CPC by the plaintiff are hereby allowed.

(Dictated to the Stenographer directly on the computer, then corrected and pronounced by me in the open court on this date the 2<sup>nd</sup> day of December, 2023)

Sd/-

**(B.S.Rayannawar)**

Senior Civil Judge and JMFC.,  
N.R.Pura, Itinerate at Koppa.