

IN THE COURT OF THE CIVIL JUDGE AND ADDL. J.M.F.C AT TARIKERE

O.S.No.427/2023

PLAINTIFF

vs.

DEFENDANTS

Smt. H.M. Thimmamma

Sri. Giddahanumanthappa

Date: 19.12.2024

Proceedings or Orders of the Judicial Officer

ORDERS ON I.A. NO.I

1. The instant application is filed under Order III rule 2 r/w. Section 151 of CPC with a prayer to permit the Applicant/ SPA holder of the Plaintiff by name Sri. Chikkegowda.B.S S/o. Late Sri. Siddappa to conduct the suit on behalf of the Plaintiff in the present suit.
2. In the affidavit appended to the application, the Applicant has contended that, the Plaintiff is suffering from ill health and she is of old age and given such difficulty, she is finding it difficulty to approach her Advocate and to conduct the present suit. Hence, the prayer is to permit the Applicant to conduct the case on behalf of Plaintiff by allowing the application.
3. Resisting the application, the Opponent/ Defendant has filed objections with the contention that the application is filled with falsity, contains concocted story and also not maintainable in law; the Plaintiff is very much healthy and she is in position to appear before this Court; the Applicant has not produced any iota of documents about ill-health of Plaintiff; despite which, such an

application is filed only with an intention to suppress the true facts. With these contentions the prayer is to reject the application with costs.

4. Heard both sides.

5. Having heard the rival contentions and on perusal of the materials, the sole point that would now arise for my consideration is as under -

Whether the Applicant/ SPA holder of Plaintiff has made out sufficient grounds to allow the application?

6. Now, my findings on above point is in the ***Affirmative*** for the following reasons -

7. The suit is filed for the relief of declaration. The suit is presently at the stage of Plaintiff evidence.

8. In the instant application, it is contented that the Plaintiff is suffering from ill-health and the cause title of the plaint would give an indication that the Plaintiff is a senior citizen. In such circumstances, it is very much believable that she is facing difficulty to attend the Court and conduct her case effectively. On perusal of Order III of CPC makes it clear that the parties can be represented by any of their authorized agents. It is also settled law that the GPA/ SPA holder of any party to the suit can lead evidence under proper authorization and even the application of like nature is not at all necessary. In such circumstances, it appears that there is no legal impediment to consider the application positively and permit the SPA holder of the Plaintiff to conduct the case on behalf of the Plaintiff. With

these observation, the sole point that has arisen for my consideration is answered in the **Affirmative.** For the foregoing reasons, the following—

ORDER

I.A No.I filed by the Applicant/ SPA holder of Plaintiff under Order III rule 2 r/w. Section 151 of C.P.C is hereby allowed.

The SPA holder of the Plaintiff by name Sri. Chikkegowda.B.S S/o. Late Sri. Siddappa is permitted to conduct the case on behalf of the Plaintiff.

*For Plaintiff evidence, call on: **05.02.2025.***

sd/-

**Civil Judge and Addl. JMFC.,
Tarikere.**