

ORDER ON IA NO.IX

This is I.A.No.IX filed under Order III Rule 2 r/w Sec.151 of Code of Civil Procedure by the defendant No.6, who is also the GPA holder of the defendant No.6 seeking permission to conduct the case on behalf of the defendant No.6.

In the affidavit accompanying the application, the applicant has stated that the present suit is posted for defendants evidence. The defendant No.6 is suffering from old age diseases and ill health, as such he is unable to move frequently and appear before the Court and prosecute the case. Therefore, he has executed the GPA in his favour empowering his to represent the defendant No.6 and conduct the case on his behalf. Accordingly, he prayed to allow I.A No.IX.

Counsel for plaintiffs filed objection to the said application denying the averment made in the affidavit accompanying the said application. In the objection it is stated that the application is not maintainable either under law nor on facts and same is liable to be rejected. The plaintiff pertaining to property in dispute is way back to the year of 1961-62 and the aged of alleged GPA holder of defendant No.6 is synchronized with one another, it undoubtedly manifest that, he has no persons knowledge in

respect of said property, It is settled law that the person who wants to appears as a power of attorney holder it is mandate to satisfy the court regarding having personal acquaintance with the property in dispute as well as he ought to deal with the same. It is further stated that either in the affidavit annexed to said IA or in the alleged GPA dated 12.12.2022 the aforesaid requirement of personal knowledge over the property in dispute are totally bereft. As such as a matter of write the said applicant cannot represent on behalf of said defendant+ further when there is no pleading and proof regarding said knowledge, coupled with as there is no iota of documentary evidence regarding alleged ill health of said defendant. Hence he prayed to reject the application.

Heard counsel for the defendants and perused the materials on record.

Under Rule 2 of Order III of the Code of Civil Procedure the person holding the power of attorney is the recognized agent of the party to the proceedings. The recognized agent can represent the party. It is the right of the party to appear before the Court through recognized agent. I have perused the General Power of Attorney filed along with I.A.No.IX and satisfied as to the grounds shown in the affidavit accompanying the application. Further the objection raised by the plaintiff that it is not right for the authorized person to give the power of attorney to the son without any personal information regarding the claim property and even

though the person giving the power of attorney is in good health and can testify in court and the person authorized to give the power of attorney is afraid that the person giving the power of attorney will give some agreed answers if the person giving the power of attorney is questioned, as such he is not eligible to conduct the case and lead evidence on behalf of the defendant No.6 is can not be accepted for the reason that the said ground it self does not dis entitled him to conduct the case and lead evidence on behalf of the defendant No.6 who being the father of the power of attorney holder. Therefore, it is necessary to allow instant I.A No.IX in the interest of justice and equity. Hence, I proceed to pass the following:-

ORDER

I.A.No.IX filed under Order III Rule 2 r/w Sec.151 of Code of Civil Procedure by the applicant Sri C. Suresh S/o Chowdaiah is hereby allowed.

The GPA holder of defendant No.6 by name Sri C. Suresh S/o Chowdaiah is permitted to represent the defendant No.6 in this case and conduct the case on his behalf also.

Prl.Civil Judge and
JMFC., Kollegal.

For defendants evidence by

Prl.Civil Judge & JMFC.,
Kollegal.

OK

