

ORDER ON MEMO

The present memo filed by the learned counsel for plaintiff along with GPA dated 21-06-2025 executed by the present plaintiff in favour of Sri Raghavendra S/o Hanumanthappa

i.e his brother prosecute the case on behalf of him in the present case when the case is posted for Cross of PW- 1.

The learned counsel for defendant No. 1 to 3 filed objection to the said memo stating that the plaintiff in the present case appeared before the court and filed chief examination affidavit and examined as PW- 1 and case is posted for cross examination of PW-1 on 30-01-2025 subsequent hearing dates. Such being the case on 21-06-2025 the plaintiff filed memo to discard the evidence of PW- 1 which is not permissible under law.

The affidavit filed by the plaintiff is part and parcel of the present record and the plaintiff has not produced any medical document before the court, to establish his ill health as stated in the GPA. The PW- 1 himself concealing appearing before the court to avoid extraction of truth and with malafide intention executed GPA in favour of his brother without seeking prior permission from the court. Thus prays to dismiss the memo filed on 21-06-2025.

Perused the rival claims of both parties and heard from both side on memo.

Having taken note of the fact and circumstances of the case, the plaintiff filed the memo before the court on 21-06-2025 seeking discard the evidence of PW- 1 along with memo with GPA document executed by plaintiff i.e PW- 1 in favour of his brother by name Raghavendra S/o Hanumanthappa stating that he being illiterate person, the age old suffering from ill health and unable to attend the court proceedings regularly.

But on perusal of chief examination affidavit filed by the PW- 1 dated 30-01-2025 he stated his age was 47 years and not stated any incapacity to appear before the court.

The plaintiff also stated in his GPA that he is suffering from ill health, the said fact is not supported by any medical documents. That apart the parties have to decide before entering into the witness box to whom he has to examine. In the present case the plaintiff examined as PW- 1 and got marked Ex.P. 1 to 7 documents on 30-01-2025. When the case is posted for cross examination of PW- 1 he remained absent and all of a sudden without any reason he filed present memo with GPA . Hence the contention taken by the plaintiff in the GPA is not supported by any documents.

Hence the plaintiff has not made out any reasonable grounds to examine his GPA holder in the present case. Hence memo as well as GPA filed by the plaintiff is hereby rejected.

For cross examination of PW- 1 .

Call on 28-11-2025.

I Addl. Civil Judge & J.M.F.C.,
Channagiri.

