

**IN THE COURT OF PRL.CIVIL JUDGE AND PRL.JMFC,
DHARWAD**

-: PRESENT :-

**Sri.AVINASH GHALI,
B.A. LL.B.,
Prl. Civil Judge & Prl.J.M.F.C., Dharwad**

Dated this the 06th day of February - 2026

Original Suit No.74/2014

BETWEEN

Plaintiff : Vishwanath S/o Ramkrishna Havanur

(By Sri.S.B.A Adv.)

V/s.

Defendants : Smt. Khutejabhee W/o Peerasab Veerapur
and another one.

(Defd. No1 by Sri. M.P.V. Adv.)

(Defd. No2 by Sri.R.U.B)

PARTIES TO I.A.NO.11

Applicant : Prakash S/o Yesurathnam Asthoti
(SPA holder of
plaintiff)

V/s.

Defendant : Smt. Khutejabhee W/o Peerasab Veerapur
and another one.

PARTIES TO I.A.NO.12

Applicant : V.R. Havanur
(Ori.pltiff.)

V/s.

Opponent : Smt. K.P Veerapur and another
(Ori. Deft.)

1.	Provision under which the application is filed	I.A No.11 U/O III Rule 2(A) R/w Sec.151 of CPC
2.	Relief sought for	Prayer to permit plaintiff to power of attorney holder.
3.	The date on which the application is filed	15-09-2025
4.	Number of the application	I.A No.11
5.	The date on which the objection filed by different opponents	26-09-2025
6.	The date on which the orders were passed on the said application	06-02-2026

1.	Provision under which the application is filed	IA No.12 U/Sec. 151 of CPC
----	--	----------------------------

2.	Relief sought for	Prayer to permit plaintiff to appear through VC by providing online link
3.	The date on which the application is filed	29-10-2025
4.	Number of the application	I.A No.12
5.	The date on which the objection filed by different opponents	27-11-2025
6.	The date on which the orders were passed on the said application	06-02-2026

ORDER ON I.A.NO.11 & 12

GPA of plaintiff filed IA No.11 under Order III Rule 2(A) R/w 151 of CPC with prayer to permit power of attorney holder of plaintiff to appear and give evidence, acts etc., on behalf of plaintiff in the above case.

2. Further the counsel for plaintiff has filed a application under Section 151 of CPC with prayer to permit plaintiff to appear through VC by providing online link in the present case.

3. In the affidavit annexed with IA No.11, it is stated by the plaintiff that, the plaintiff is his friend and family well

wishers and both are residing in the District of Dharwad for several years. Further stated that the health of plaintiff is not well and undergoing treatment and due to his ill-health the plaintiff is unable to travel and participate in person to the above said reasons. Hence, it is contention of applicant that, the plaintiff has appointed him as his power of attorney for appearance and act on his behalf and give evidence on behalf of him. If application not allowed, he will put great hardship and injustice. Hence it is prayed to permit him to appear on behalf of plaintiff. The applicant has produced the copy of the power of attorney along with the application.

4. The defendant no.1 and 2 have filed the objection to the present application and contending that the false application filed. Even it is contented by defendant no.1 and 2 that, applicant cannot entitle relief or permission to appear as a power of attorney and give evidence. Both defendant no.1 and 2 have denied the contention of plaintiff, that the plaintiff is not well and is not healthy. Even it is contended that the power of attorney alleged to be executed in favour of defendant not a registered one, and even neither notarized nor identified by any advocate or court officers as prescribed. Hence the GPA itself is suspicious in nature. Hence the defendants have questioned the legal status of power of attorney. Even it is contended that the alleged power of

attorney holder does not have locus standi to file the present application. With this contention it is prayed to reject the application.

5. The counsel for plaintiff has filed a memo of facts application under section 151 of CPC, wherein it is contended that the plaintiff filed the affidavit in support of said application for permitting to contest through GPA and plaintiff executed the GPA to represent him and plaintiff is under treatment being suffering from chronic liver disease hence unable to appear personally before court. Hence, it is prayed to allow the application.

6. The defendants have filed an objection to the application filed under Section 151 of CPC by contending that the plaintiff is unnecessarily dragging the suit since 2014 and filed a false concocted application to harass the defendants no.1 and 2. Further, defendant no.2 contended that the records of medical documents clear that the plaintiff is not a bona-fide with his submission being plaintiff is permanent resident of Ramnagar, Hosayallapur Road, Dharwad. Even the plaintiff is under treatment for chronic liver disease. But there is no advised by the doctor to take bed rest from traveling from Dharwad to Hubli. The plaintiff is deliberately avoiding his presence before the court and not ready to proceed with the case. No hardship would cause if the

application is rejected. Hence prayed to reject application filed under section 151 of CPC.

7. Heard the learned counsel for plaintiff and also learned counsel for defendants. Perused the materials recorded.

8. The following point that would arise for consideration by this Court:

1. Whether applicant of present application is permitted to appear on behalf of plaintiff as power of attorney holder of plaintiff and conduct the trial of the case?
2. Whether plaintiff has a made-out a grounds to permit him to appear through video conferencing?
3. What order?

9. The answer to the aforesaid points are as below:

Point No.1 :	In the Negative.
Point No.2 :	In the Negative.
Point No.3 :	As per final order for the following....,

REASONS

10. Point No.1 : It is to be noted that, the suit is filed by the plaintiff for relief of declaration to declare that plaintiff is the absolute owner of the suit properties and also consequential relief of permanent injunction by restraining the defendant or anybody acting on his behalf not to disturb in the peaceful possession of the plaintiff. Further, relief of declaration to declare the compromise decree passed by the Hon'ble II Addl. Senior Civil Judge, Dharwad in OS No.76/2021 dated 20.04.2021 is collusive, null and void, not binding upon the plaintiff.

11. It is to be noted that the matter is of 2014 and pending for leading evidence by the plaintiff since long from 06.09.2016 till then the plaintiff has not appeared before this court. The plaintiff has not led evidence since 2016 and even has not appeared before this court.

12. During pendency of suit, defendant no.2 has been got impleaded himself as defendant no.2.

13. It is to be noted that from the records of the suit it is evident that the plaintiff has changed many advocates to appear on his behalf in the present suit.

14. It is significant to note that the present application is filed by the applicant for seeking permission to appear him as a power of attorney on behalf of plaintiff. It is significant note that as per judgment of Hon'ble High Court of Karnataka in the case of ***Sajida Banu vs. Halema Banu*** reported in **ILR 2015 KAR 635**, the Hon'ble High Court has held that the plaintiff can contest the suit through power of attorney and no permission of court is necessary to contest the suit by seeking permission by leading evidence through power of attorney. It is also relevant to note that the power of attorney can lead evidence on behalf of plaintiff but subject to the power of attorney should have personal knowledge of the case. Then the power of attorney can lead the evidence on behalf of plaintiff.

15. In the present case the plaintiff has not filed any application or has come forward to lead the evidence through GPA. But the application of the present application filed the application to lead the evidence on behalf of plaintiff. However even the copy of power of attorney produced by the applicant itself goes to show that the said power of attorney neither registered nor notarized before the notary. Even otherwise the holders of the power of attorney i.e., application has not been identified by any advocate in the said power of attorney. It is significant to note that the defendants are disputing the

identity of the plaintiff and the power of attorney produced by the applicant is not in accordance with law. When there is a serious dispute with respect to identity of the plaintiff, then the plaintiff himself has to appear before the court and the lead is evidence. The matter being pending since 2016 for evidence of plaintiff, the plaintiff has not appeared. Therefore there is a dispute with respect to identity and alleged execution of power of attorney by the plaintiff, then the plaintiff has to appear himself before the court. Therefore, at this stage the applicant has not made out a grounds to allow him to lead the evidence on behalf of plaintiff through alleged unauthorised and registered power of attorney. Therefore in light of aforesaid discussion the applicant has not made out any grounds to allow the present application. Thus, **Point No.1 is answered in the Negative.**

16. Point No.2: There is a serious dispute with respect to identity of the plaintiff. Therefore the plaintiff has to appear before the court personally to prove his identity and even on the subsequent dates, plaintiff can appear through the video conferencing. But the plaintiff has not appeared since 2016 before the court. Therefore it is very difficult to ascertain as to whether the real plaintiff is appearing in the VC or not. Thus it is necessary to identify the plaintiff with his documents by appearing personally before the court.

Hence, in light of aforesaid discussion the plaintiff has not made out a grounds to permit him to appear through video conferencing. Therefore, in light of aforesaid discussion, the **Point No.2 is also answered in the Negative.**

17. Point no.3: As per the discussion held and findings on point no.1 and 2, this Court proceeds to pass the following :

ORDER

The application filed by the applicant by name Prakash S/o Yesurathnam Asthoti under Order III Rule 2(A) R/w 151 of CPC and application filed by the counsel for plaintiff under Section 151 of CPC are hereby rejected.

For evidence of plaintiff.

(Dictated to the Adalat AI and same is transcribed by stenographer, then corrected, signed by me and pronounced in the open Court dated this **06th day of February 2026**).

(Avinash M. Ghali)
Prl., Civil Judge & JMFC.,
Dharwad.