

**27.05.2020**

P-SRH

D.3-JGK

D.4-SSJ

For Orders

**ORDERS ON I.A.NO.VIII**

The GPA holder of the Plaintiffs has filed this application under Order 3 Rule 2 R/w. Section 151 of CPC praying to permit him to give the evidence on behalf of the Plaintiffs in the present suit.

2. The GPA Holder of the Plaintiffs has sworn an affidavit annexed to this application.

3. The Defendant No.4(a) has filed objections to this application.

4. In support of the application, the Learned Counsel appearing for the Defendants No.4(a) to (c) has placed reliance upon the decisions reported in,

- i) AIR 2005 Supreme Court 439 (Janki Vashdeo Bhojwani and Another V/s. Indusind Bank Ltd., and Others)
- ii) 2013 DGLS (SC) 292 (S. Kesari Hanuman Goud V/s. Anjum Jehan and Others)

5. I have gone through the contents of affidavit, objections, pleadings, records and the principles enunciated in the decisions.

6. By filing the present application, the POWER of Attorney Holder of the Plaintiffs has prayed to permit him to give evidence on behalf of the Plaintiffs in the present suit. By filing objections, the Defendants No.4(a) to (c) have seriously contested this application. But, based on the objections raised by the Defendants No.4(a) to (c), the present application filed by the Power of Attorney Holder of the Plaintiffs, can not be rejected, as, the Plaintiff No.1 is a wife of the GPA Holder and all the Plaintiffs have filed the present suit through their Power of Attorney Holder, who is the same GPA Holder, who has sworn an affidavit annexed to this application and all the Plaintiffs are sisters and as such, the P.A. holder is the nearest relative of all the Plaintiffs and hence, he has well knowledge about the family of the Plaintiffs as well as the case made out by the Plaintiffs in the present suit as against the Defendants. Further, by filing the present suit through the GPA Holder, the Plaintiffs have claimed the reliefs of Partition and Separate Possession, Declaration and Future Mesne Profits. Further, the Plaintiffs have clearly narrated in the plaint itself that, they are represented by their GPA

Holder Sri. Rajan @ Rajendraprasad S/o. Arjunprasad Trivedi, who is the same P.A. Holder and he has put his signature on the plaint on behalf of the Plaintiff as their Power of Attorney Holder. Under such circumstances, it is just, proper and necessary to permit the Power of Attorney Holder of the Plaintiff to give evidence on their behalf in the present suit. Hence, whatever the objections raised by the Defendant No.4(a) do not survive for consideration at all. In view of the said reasons, the present application filed by the General Power of Attorney Holder of the Plaintiffs is required to be allowed. Hence, the principles enunciated in the decisions cited by the Learned Counsel appearing for the Defendants No.1(a) to (c) are not applicable to the present facts and circumstances of the case on hand. Accordingly, I proceed to pass the following,

**ORDER**

I.A.No.VIII filed by the Power of Attorney Holder of the Plaintiffs under Order 3 Rule 2 R/w. Section 151 of CPC is hereby allowed.

The Power of Attorney Holder of the Plaintiffs is hereby permitted to

give the evidence on behalf of the  
Plaintiffs in the present suit.

No order as to costs.

Evidence of Plaintiffs by :  
10.06.2020.

**(INDIRA MAILSWAMY CHETTIYAR)**

I Addl. Senior Civil Judge & CJM.,  
Dharwad.