

23.09.2025

ORDER ON I.A.NO.IX

The Judgment Debtor has filed the present application under **Order III Rule 3 CPC r/w Section 151 CPC** seeking permission to permit the Secretary of *Bhuvenshwari Vidya Vardhaka Samiti, Mundargi* to represent the Samiti in the present execution petition and to depose oral evidence as Power of Attorney holder.

It is stated that *Bhuvenshwari Vidya Vardhaka Samiti* has passed a resolution authorizing its Secretary to act on its behalf, and pursuant thereto, a General Power of Attorney has been executed in his favour. The said GPA empowers him to give oral evidence and perform other legal acts in connection with the proceedings.

The applicant has further contended that he is serving as the Secretary of the Samiti for many years, the Samiti is an educational institution situated in the property which is the subject matter of the execution proceedings, and therefore, he is conversant with the facts of the case. He has produced before this Court the original resolution and the GPA executed in

his favour. Hence, the present application is filed seeking leave of the Court to permit the Secretary to represent the Jdr in these proceedings.

It is urged that in terms of Order III Rule 1 & 2 CPC, any appearance, application or act in Court can be made by a recognized agent or pleader. The GPA coupled with the resolution authorizes the Secretary to represent the Samiti. Since the Samiti is a juristic person, it can only act through its authorized representative. Accordingly, permission be granted in the interest of justice.

On perusal of the documents produced, the Jdr has placed on record: (a) A copy of the resolution passed by the governing body of *Bhuvenshwari Vidya Vardhaka Samiti* authorizing its Secretary to represent the institution before the Court; and
(b) The original GPA executed in favour of the Secretary.

Both documents appear to be duly executed and confer the necessary authority. There is no material to doubt their validity.

Order III Rule 1 CPC permits any appearance, application or act

in Court to be made by a party in person, by his recognized agent, or by a pleader. A juristic person like an educational institution cannot appear in person but only through a duly authorized agent. Therefore, representation through the Secretary as GPA holder is permissible in law.

As regards deposition of evidence, the settled legal position is that a power of attorney holder may depose regarding facts within his personal knowledge and in respect of acts done by him or in his presence. He cannot, however, depose in respect of matters which are not within his knowledge but are exclusively within the knowledge of the principal.

In the present case, the Secretary being an officer of the Samiti and actively involved in its administration, is acquainted with the facts relating to the subject property and litigation. He can therefore competently represent the Jdr and depose as to such facts. The question of evidentiary value of his testimony is always open to assessment at trial.

On a conspectus of the above, this Court is of the considered opinion that the application

deserves to be allowed. Hence, I pass the following;

ORDER

The application filed by the Judgment Debtor under Order III Rule 3 read with Section 151 CPC is **hereby allowed.**

The Secretary of *Bhuwenshwari Vidya Vardhaka Samiti, Mundargi*, being the duly authorized power of attorney holder of the institution, is permitted to represent the Samiti in **Ex. No.56/2019.**

He is also permitted to depose oral evidence on behalf of the Judgment Debtor, subject to the limitation that he may depose only with respect to facts within his personal knowledge and acts performed by him in discharge of his duties.

The question of evidentiary value of his testimony shall be decided at the appropriate stage of proceedings. Application allowed accordingly.

Call on:

Sd/-

C.J & JMFC, Mundargi.