

**IN THE COURT OF THE SENIOR CIVIL JUDGE &
JMFC, ARSIKERE**

DATED THIS THE 27th DAY OF AUGUST 2024

Present: Sri.Kirankumar D.Wadigeri, B.A.L., L.L.B.,
Senior Civil Judge & JMFC.,
Arsikere.

O.S. No.107/2022

Plaintiff : Smt.Jayamma
D/o Late Sannaramegowda,
Aged about 65 years,
R/o Shishuvala Village,
Kanakatte Hobli, Arsikere Taluk,
Hassan District.

(By Sri S.P.V., Advocate)

-V/s-

Defendants : 1) Shankaralingappa
S/o Late Marulasiddegowda,
Aged about 59 years,
R/o D.M. Kurke Village,
Kanakatte Hobli, Arsikere Taluk,
Hassan District and others.

(D-1, 2, 4 to 7 by Sri K.V.H., Advocate)
(D-8 to 10 by Sri Y.C.R., Advocate)
(D-3 by Sri N.S.S., Advocate)

Parties to I.A.No.3

Applicant : Shwetha S.G. W/o Ravisha D.L.
Aged about 22 years,
R/o Dodda Ramegowdana Koppalu
Village, Arsikere Taluk,
Hassan District.

(By Sri S.P.V., Advocate)

-V/s-

Opponents/
defendants : 1) Shankaralingappa
S/o Late Marulasiddegowda.

ORDERS ON I.A.No.3

The GPA holder of the plaintiff has filed this application under Order 3 Rule 2 of CPC to permit her to conduct the case on behalf of the plaintiff.

2. The applicant in her affidavit filed along with this application has stated that the plaintiff has filed this suit for partition and separate possession but she is old aged person suffering from illness and she is not able to come to the Court to adduce the evidence. That the applicant is her grandmother and she knows the facts of this case and she has executed GPA in her favour to conduct the case on her behalf. Hence, it is prayed to allow her to conduct the case on behalf of the plaintiff.

3. The defendants in their objections have contended that the GPA holder has purposefully obtained the GPA of the plaintiff in order to avoid her appearance and for evidence to avoid the truth of this case. If the plaintiff personally adduces her evidence, truth will come out. If the application is allowed, they will face much

hardship and loss. Hence, it is prayed to dismiss I.A.No.3 filed by the applicant.

4. Heard both sides on I.A.No.3.

5. Then the following points arise for consideration of this Court are as under:-

1) Whether the applicant has made out sufficient grounds to allow I.A.No.3?

2) What order?

6. My findings on the above points are as under:

Point No.1 : In the **Affirmative**

Point No.2 : As per final order
for the following:

REASONS

7. **Point No.1:** The plaintiff has filed this suit for the relief of partition and separate possession against the defendants in the suit properties, stating that the suit properties are the ancestral and joint family properties of herself and the defendants. Defendant Nos.16 and 17 have taken the contention that the suit properties are the self-acquired properties of the 1st defendant. In this application, the applicant has stated that the plaintiff is old aged lady suffering from ill-health and she cannot adduce her evidence personally before this Court. In support of her contentions, she has produced the medical certificate of the plaintiff which clearly shows

that the plaintiff is 74 years old aged lady and she cannot walk independently. So, this being the fact, it is not proper to say that the plaintiff is avoiding to attend before the Court and to adduce her evidence. The applicant in her affidavit, she has clearly stated that she knows the facts of the case and she is ready to conduct the case on behalf of the plaintiff. Therefore, the applicant has made out sufficient grounds to allow this application. Hence, **my finding to point No.1 is in the Affirmative.**

8. **Point No.2:** In view of the reasons and finding given to point No.1, the following is made:

ORDER

I.A. No.3 filed by the applicant under
Order 3 Rule 2 of CPC is hereby allowed.

The GPA holder is permitted to conduct
the case on behalf of the plaintiff.

No order as to costs.

(Dictated to the Stenographer, transcribed and computerized by
him, corrected and then pronounced by me in the open Court on
27th day of August 2024)

(Kirankumar D.Wadigeri)
Senior Civil Judge & JMFC,
Arsikere.