

ORDER ON IA NO 3

This is an application filed by the applicant who is the GPA holder of the plaintiff under order 3 Rule 2 of CPC to permit her to prosecute and to lead evidence in the present case on behalf of plaintiff.

The application is supported by the affidavit of the GPA holder and it is sworn that she is the daughter of the plaintiff and due to the ill health of plaintiff, she could not appear before the court in order to prosecute the present case and also to lead evidence. It is also sworn that the plaintiff has executed Special Power of Attorney in her favour in order to prosecute and to lead evidence on behalf of plaintiff. Hence prayed to permit her to prosecute and to lead evidence on behalf of plaintiff in the present case.

The counsel for defendant submitted no objection to the application.

Heard the arguments of both the counsels:

The point that arise for consideration are:

Point No1: Whether the applicant has made sufficient grounds to permit her to prosecute and to lead evidence on behalf of plaintiff as her power of Attorney holder ?

Point No 2: What order ?

My answer for the above points are :

Point No 1: In affirmative.

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

::REASONS::

Point No 1: The application is filed by the applicant who is the GPA holder of the plaintiff to permit her to conduct the present case on behalf of the plaintiff and also to lead evidence on her behalf. The application is supported by affidavit and on perusal of the affidavit it reveals that the applicant is the daughter of the plaintiff. The applicant

has also produced two original Special Power of Attorneys executed by the plaintiff dated 04-11-2017. On perusal of said SPA it reveals that the plaintiff had given power of attorney to the present applicant in order to prosecute and to lead evidence on her behalf in the present case. On perusal of the age of the plaintiff she is aged about 91 years and she executed power of Attorney in favour of her daughter. The age of the plaintiff itself indicates that she may suffer from ill health. More over order 3 Rule 2 of CPC permits a person to prosecute the case through his GPA holder. The applicant being the daughter of plaintiff may aware about the facts of the case and when the plaintiff has given the power to represent on her behalf, then the applicant has got every right to defend the case on behalf of plaintiff. Hence by considering the reasons stated in the affidavit accompanying to the application the same deserves to be allowed. Hence I answer point No 1 In affirmative.

Point No 2: For the aforesaid reasons for the following:

//ORDER//

The application I A No 3 under order 3 Rule 2 of CPC is here by allowed. The applicant is hereby permitted to prosecute the present case and to give evidence on behalf of plaintiff . No order as to cost.

(Sandesh Prabhu B.)
Prl. Civil Judge and JMFC,
Arsikere.

For plaintiff evidence.
Call on. 02-03-2018

(Sandesh Prabhu B.)
Prl. Civil Judge and JMFC,
Arsikere.

