

29.11.2023

Plff by Sri.**BM**

Deft by Sri. **KLN**

For Orders on **application**

ORDERS ON APPLICATION

This application is filed by the wife of plaintiff No.1 by name Smt.Gayathri W/o Ravi B.R. U/o 3 Rule 2 of Civil Procedure Code seeking permission of this court to conduct the case on behalf of 1st plaintiff as his power of attorney holder. The defendants have filed objections to the instant application thereby resisting the same.

2. It is contended by the wife of plaintiff No.1 in the affidavit filed in support of the application that the plaintiff No.1 is suffering from liver damage and kidney diseases and as such, he has given General Power of Attorney dated 25.07.2023 in her favour to conduct the case and the said power of attorney is produced along with the application.

3. In the objection statement, the defendants have denied all the averments made in the said application. The plaintiffs have also contended that, the applicant has filed this application by concocting the story and in this case already evidence of 1st defendant is concluded and part of the cross

examination has been completed and at this stage, the applicant has come up with the false application in order to cover up the lacunas in the case of plaintiff. It is also further contended that at the earlier stage of the case, permission may be given for appointing General Power of Attorney, but at this stage, only in order to harass the defendants, the plaintiffs have come up with the instant application and if the permission for appointing the General Power of Attorney is given, then the defendants would suffer great loss and hardship then that of the plaintiffs. Hence, the defendants have sought for dismissal of the application.

4. Heard Arguments. Perused the power of attorney, application and affidavit and objection statement. This suit is filed by the plaintiffs seeking the relief of permanent injunction. In this case, the evidence of P.W.1 is closed and cross-examination of D.W.1 is also partly concluded. In this stage, the instant application has been filed by the wife of P.W.1 to conduct the case on his behalf as his Power of Attorney Holder as he is suffering from liver damage and kidney diseases and as such, he is unable to come to the court. When such being the case, no prejudice will be caused to the defendants, as the chief examination of D.W.1 is concluded and he is partly cross-examined. Therefore, considering the nature and stage of this case, this court is of opinion that it is just and necessary to permit the plaintiff No.1 to continue the suit through his Power of Attorney Holder. Therefore, the grounds urged in the affidavit filed in support of application are accepted. Hence, the application deserves to be allowed. Accordingly, this court

O.S. No.277/2013

proceed to pass the following:

:: **ORDER** ::

- The application filed by the wife of plaintiff No.1 Under Order 3 Rule 2 of Civil Procedure Code is hereby allowed.
- Plaintiff No.1 is permitted to proceed with the case through his Power of Attorney Holder in terms of G.P.A. executed by him.
- For Cross examination of DW-1 by **17.01.2023**.

(Prasanna Kumar C.)
Civil Judge & JMFC, Belur.