

ORDERS ON I.A. No.10

The counsel for the respondent No.5 filed vakalath for GPA holder of respondent No.5 along with I.A No.10 U/o 3 Rule 2(a) of CPC praying to permit the GPA holder of the respondent No.5 by name Harish B.N S/o B.T Nagaraju, aged about 47 years, Baralu Village, Kasaba Hobli, Channarayapattana Taluk to proceed with the case on behalf of the respondent No.5.

2. In the accompanying affidavit, the respondent No.5 stated that the petitioners have filed suit against this respondent and other respondents for the relief of partition in respect of the schedule properties. Further he stated that now he is aged about 65 years and he is suffering from age old ailments. He is not able to attend the court proceedings regularly, due to his ilhealth. Hence prays to permit his GPA holder who is the son of his brother by name B.N Harish S/o Nagaraju B.T and prays to allow the application.

3. On the contrary the petitioners have filed objection to the said application and stated that the son of respondent No.5 by name Anil Kumar is appearing on behalf of this respondent by executing GPA in O.S No.465/2017 on the file of

Addl. Civil Judge, Channarayapatna in there the plaintiffs have filed suit for the relief of declaration. But his son is not appearing before court on the said case, the respondent No.5 himself is proceedings with the case. Further stated that the present GPA holder of respondent No.5 is the son of respondent No.1. This respondent is not having any locus-standee to file this application. Hence prays to reject the application.

4. Heard and perused the materials placed on record.

5. The present petition has been filed by the petitioners against the respondents including this respondent for execution of the decree in O.S No.5/1994. Now the present application has been filed by the respondent No.5 praying to permit the GPA holder of the respondent No.5 to proceed with the case on his behalf. Now the case is stands posted for cross examination of RW.1.

6. On perusal of the file it appears that the respondent No.5 itself was filed affidavit in-lieu of examination in chief on 16.06.2025 and he examined as RW.1. Then prays for further chief examination of RW.1. On that day the respondent No.5 was verymuch present before this court and filed chief affidavit. If respondent No.5 is permitted

to appoint his GPA to proceed with the case, it may consume valuable time of the court. Now the case is stands posted for cross examination of RW.1. At this stage the present application filed by the respondent No.5 is not maintainable.

7. Further the respondent No.5 has already stepped into the witness box and he was examined as RW.1. Therefore the respondent No.5 has not made out sufficient grounds to allow the application as prayed in his application. Hence this court proceed to pass the following:

ORDER

The I.A No.10 filed by the respondent No.5 under order 3 Rule 2(a) of CPC is hereby rejected.

For cross examination of RW.1.

To tender RW.1 for cross examination finally.

Call on: 10.11.2025.

***Prl. Civil Judge & Jmfc,
Channarayapattana.***