

IN THE COURT OF CIVIL JUDGE AND JMFC AT
HOLENARASIPURA

Present:- Sri. Chandrashekhara P.Diddi, B.A., LL.B,
Civil Judge and J.M.F.C,
Holenarasipura.

Dated this the 11th day of February-2016

O.S.No.203/2013

Manjula and others : Plaintiffs

(By Sri.A.T.V.,Adv.,)

V/s

Vijayendra and others : Defendants

(D1 & 2 By Sri.K.K.R.,Adv.,
D3 Exparte)

ORDERS ON IA-V

Vijayendra Kumar : Applicant/Defendant No.1

V/s

Manjula and others : Plaintiffs

ORDER ON IA-V

The defendant No.1 has filed IA.No.V under order 3 rule 2 of
C.P.C seeking permission to lead the evidence of GPA Holder on his
behalf.

2. In the accompanying affidavit of IA.No.V the defendant
No.1 submitted that he is suffering from ill health and he is unable to

walk. The defendant No.1 has executed GPA in favour of his son. The defendant No.1 is the father of the GPA holder. He has produced the GPA to the court. Therefore the defendant No.1 has intended to lead the evidence of GPA on his behalf. If the application is allowed and permitted to lead the evidence on his behalf no harm or loss caused to the plaintiffs. On the other hand, the application is dismissed the defendant No.1 will be put to irreparable loss. Hence, prays for allowing the application.

3. The plaintiffs counsel presents and submits that the application may be allowed.

4. Heard the arguments of both the counsels.

5. The following points that arise for my consideration are as:

1. Whether the application filed by the defendant No.1 is deserves to be allowed and what order?

6. I answer the above points are as follows.

Point No.1:- In Affirmative and

as per the final orders for the following reasons.

REASONS

7. **Point No.1:-** I have gone through the application averments and GPA produced by the defendant No.1. The defendant No.1 counsel submitted that the defendant No.1 has executed the GPA in

favour of the Arunkumar V. S/o Vijayendra. On perusal of the GPA, it reveals that the defendant No.1 is the father of the GPA holder and he has executed the GPA in favour of his son for leading the evidence. On the strength of the GPA, the defendant No.1 seeking permission to lead the evidence on his behalf.

8. I have gone through under Order 3 rule 2 of CPC. In the order 3 rule 2 of CPC it is categorically mentioned that

the recognised agent of the parties may appear and filed the application on behalf of such parties.

Therefore in this case the GPA holder is recognised agent of the defendant No.1.

9. Further in this regard I would like to rely on the Hon'ble High court decision reported 2006(1) KLJ 551 between Kaju Devi V/s H.S.Rudrappa. In the said decision it is held as under.

GPA holder had spoken to the necessary relevant required material facts of the case which are in his personal knowledge by acting as an agent on behalf of the plaintiffs, which is permissible under the provisions of the Power of Attorney Act, order 3 rule 2 r/w Sec.120 of Evidence Act, Ss 181 and 182 of the Indian Contract Act. It is not the case of the defendants that PW-1 (GPA holder), who has acted as an agent of the plaintiffs was not given authority in the Power

of Attorney by them to adduce evidence as a witness in the case on their behalf.

As per the law laid down the Hon'ble High court whether the defendant No.1 GPA is proper person or not is to be ascertain at that time weighing evidence. At this stage the application filed by the defendant No.1 cannot be rejected. Considering all these grounds and as per law laid down by the Hon'ble High court, the application is deserves to be allowed. Accordingly I answer the above point in the affirmative and for the above stated reasons I proceed to pass the following order.

::O R D E R::

IA. No.V filed by the defendant No.1 under Order 3 rule 2 of C.P.C is hereby allowed.

It is permitted the defendant No.1 to lead the evidence of GPA holder on his behalf.

No order as to cost.

(Dictated to stenographer and transcribed by her revised and corrected by me then pronounced in the open court dated this 11th day of February, 2016)

**(Chandrashekhara.P.Diddi)
CJ & J.M.F.C, Holenarasipura.**