

OS No. 152/2023

ORDER ON IA No.I

This is an application filed by the plaintiff counsel seeking permission of this court to appear the PA Holder of plaintiff by name Mahabaleshwar S/o Govinda Hegade to participate in the proceedings of this case on behalf of the original plaintiff.

Along with application the power for attorney executed by the plaintiff is produced with a separate application filed U/O 7 Rule 14 of CPC.

It is stated by the PA Holder that he is the General Manager of plaintiff firm hence he is conversant with the all facts in relation to the suit which is filed by representing the plaintiff firm. The representative the original plaintiff due to rush of firm work is unable to attend all the hearing date of the suit hence he has executed power of attorney in favour of him. Hence prayed to allow the application.

Per contra the defendant has filed his objections to the said application wherein it is specifically contended that there is no specific reason given in the application as to the fact which warranted the plaintiff to execute PA in favour of plaintiff. Hence prayed to reject the application with cost.

Perused the application and also gone through the materials.

The order 3 Rule 2 of CPC speaks about the recognized agents of parties by whom such appearance, applications and Acts may be made or done are the person holding power of attorney authorizing them to make and do such appearances, applications and Acts on behalf of such parties. Here, the original plaintiff has executed PA in favour of applicant by name Mahabaleshwar S/o Govinda Hegade. The power for attorney produced by the plaintiff disclosing the same. As the purpose of appearance of PA Holder is concerned the plaintiff has stated about her health which prevented her to appear and participate in the proceedings. It is well settled law that court can not prejudge the evidence of special power of attorney holder while dealing with plaintiffs application to lead evidence unless it is concluded by way of cross examination as to ascertain whether the PA holder is a competent person to depose evidence on oath. Therefore though the defendant has raised objections to the application it can not be looked into while deciding application filed U/O 3 Rule 2 of CPC. Hence there are sufficient grounds to consider the application of plaintiff. Therefore I Proceed to pass the following,

ORDER

The application filed by the plaintiff U/O 3 Rule 2 of CPC is hereby allowed.

The PA Holder of plaintiff by name Mahabaleshwar S/o Govinda Hegade is hereby permitted to participate in the proceedings of this case on behalf of plaintiff.

The IA filed for production of power for attorney U/O 7 Rule 14 of CPC is hereby allowed and power for attorney produced by plaintiff taken on record.

Having regard to the facts and circumstances no orders as to cost.

For Plaintiff Evidence.

Call on 29-03-2025

**Sr. CJ and JMFC, Shiggaon.
Sitting at Savanur.**