

Order on application filed by the SPA holder of plaintiff U/O. 3 Rule 2 of CPC

The SPA holder of plaintiff has filed the above application seeking permission to prosecute the case on behalf of plaintiff. The plaintiff is suffering from hearing problem and therefore, he is neither able to listen nor able to be speak properly. The plaintiff was clinically examined by Dr.Kishore Deulgaonkar, ENT specialist at Kalaburagi and issued medical certificate. In this regard SPA holder of plaintiff had personal knowledge of the transaction taken place in between plaintiff and defendant.

2. Hence, it is just necessary for the plaintiff to prosecute the present case through SPA holder. Therefore, the plaintiff had executed the SPA holder in favour of one Nagamma W/o Krishnappa Dhanni who is daughter-in-law.

3. The counsel for defendant has filed detailed objection to this application, wherein he specifically denied the contents of the affidavit and no sufficient reason has been shown by the plaintiff and the plaintiff

is authorized person to speak in the present case and the presence of plaintiff is very much necessary to resolve the questions, because the suit of the plaintiff is specific performance of the contract. In order to get truth before this court, his presence is very much necessary in the present case. Moreover, the plaintiff has obtained false and fictitious medical certificate on low hearing from concerned hospital.

4. Heard Arguments on both side.

5. The plaintiff has filed this suit against the defendant for the relief of specific performance of declaration and permanent injunction with respect to suit schedule property. When the case is posted for plaintiff side evidence, the SPA holder of plaintiff come up with the present application seeking to proceed with the case on behalf of plaintiff.

6. As per findings given by the **Hon'ble High court of Karnataka in Sajida Banu V/s Halema Banu case**, the court has to grant permission to proceed with the case through Power of Attorney or agent or through pleader. It is only a waste of time of the court for adjournment regarding objections or orders on

application. Hence as per the above verdict of the Hon'ble High Court of Karnataka, the application is maintainable one. The application filed by the SPA holder of plaintiff is maintainable one and the reason stated in the affidavit is believable one.

7. That the defendant has not stated any sufficient reasons to reject the application and to disbelieve the contents made in the affidavit. The plaintiff has executed SPA in favour of his own daughter-in-law by name Nagamma S/o Kashappa Hulage. It can be presumed that the Special Power of Attorney Holder had knowledge about the suit proceedings. Moreover the SPA holder of the plaintiff herself stated in the affidavit that she had knowledge of the suit transaction and therefore, it can be believed that the SPA holder of the plaintiff having personal knowledge of the transaction.

8. Apart from it, the plaintiff has produced Medical Certificate issued by one Dr. Kishore Deulgaonkar, ENT specialist, Kalaburagi, which is relating to the hearing problem of plaintiff and also produced reports notes. Medical certificates produced by the plaintiff are clearly goes to show the plaintiff is having hearing problem and for that reason, he had executed special power of attorney in favour of his own

daughter-in-law who is personally knowledge of the case and transaction. If the application is allowed, no loss or hardship will be caused to the defendant.

9. Hence for the above discussion, I proceed to pass the following:

ORDER

Interim application filed U/O., 3 Rule 2 of CPC by the SPA holder of plaintiff is hereby allowed.

For: Plaintiff evidence,

Call on

Sr. Civil Judge and JMFC.,
Aland.