

**Order on IA-III filed U/o 3 Rule 1 and 2 of CPC by the Plaintiff**

- 1.** This is an interlocutory application No III filed by the applicant seeking for appointing the applicant as power of attorney holder and permit the applicant to prosecute the case on behalf of plaintiff as power of attorney holder in the present suit.
- 2.** The application is accompanied with an affidavit sworn by the applicant stating that the plaintiff is old aged and unable to appear before the court. The applicant is the son of plaintiff and he is aware of the facts of the case. It is stated that the applicant be appointed as power of attorney holder of plaintiff.
- 3.** The defendant filed objections contending that the case is filed by the plaintiff and she is aware of the facts of the case. It is stated that the plaintiff is hale and healthy and doing agricultural work . By suppressing all these facts, the plaintiff has filed present application which is not maintainable. The SPA Holder is clever person and there fore plaintiff is intending to appoint her son to conceal the facts before the court. Hence prayed to reject the application.
- 4.** Heard arguments of learned counsel for the plaintiff and learned counsel for the defendant on I.A.III and perused the entire materials on record.

5. On the basis of materials on record the points arise for my consideration are as under,

- 1) *Whether the plaintiff has made out sufficient grounds to allow the I.A No.III?*
- 2) *What Order?*

6. On perusal of the materials on record and the application and its contents, My findings on aforesaid points are as under

- Point No.1** : In the Affirmative  
**Point No.2** : As per final orders  
for the following,

**: REASONS :**

**7. Reasoning on Point No.1:**

The suit is for the relief of declaration of ownership and permanent injunction. The cause title of the plaint shows that plaintiff is aged 52 years, as on the date of plaint. It is stated by the plaintiff that the plaintiff is old aged and unable to appear before the court. The applicant is the son of plaintiff and he is aware of the facts of the case.

The contention of the defendant is that the SPA Holder is clever person and therefore plaintiff is intending to appoint her son to conceal the facts

before the court. The counsel for the defendant can very well cross examine the power of attorney holder of plaintiff to prove his defense before the court. The provisions of Order III Rule 1 of CPC provides for appointing the person as power of attorney holder and permit the person to prosecute the case on behalf of plaintiff as power of attorney holder in the present suit. There is no legal impediment in allowing the application as the applicant is the son of plaintiff. Thus the point No.1 is answered in affirmative. Hence, I proceed to pass the following:

**ORDER**

I.A. No.III filed by the plaintiff U/o III Rule 1 and 2 of CPC is hereby allowed.

The applicant is appointed as power of attorney holder of plaintiff and permitted to prosecute the case on behalf of plaintiff as power of attorney holder of the plaintiff.

The examination in chief of PW1 is discarded.

For plaintiff evidence.

Call on 17-04-2024 .

**Senior Civil Judge & JMFC,  
Chincholi.**