

ORDER ON IA., FILED UNDER ORDER 3 RULE 2(A) OF CPC.,

1. The Applicant/ plaintiff has filed above said IA seeking permission to engage the spl. Power of attorney of holder on behalf of her to proceed or prosecute the above said suit in the interest of justice and equity.

2. In the annexed affidavit she is submitted that she is 60 years old due to her old age she can not here and travel hence she intending to engage a GPA/SPA holder to prosecute the suit on behalf of her.

3. On the other hand the defendant filed objection and contending that, the application filed by the plaintiff is not at all maintainable on the admitted facts and circumstances of the case and also even in the eye of law. Only on this sold ground itself the application is deserved to be dismissed. The defendants have denied the relationship of the plaintiff as the wife of Thammanna, and taken up a defense stating that the plaintiff is the legally wedded wife of one Siddappa of Seelanere village of K.R.Pete taluk. The PA holder being a younger sister son of the plaintiff he ha no personal experience/knowledge regarding the relationship of the plaintiff with deceased Thammanna. In the light of this the power of attorney holder can not depose any thing on behalf of the executants of the power of attorney. In the light of this view from any angle absolutely there is no merit in the application filed by

the plaintiff. The defendants denied the other averments made in the affidavit and also prayed for dismissing the application with cost.

4. I have heard on both side and perused the records.

5. The point that arise for my consideration are:-

1. Whether the applicant has made out grounds for allowing the IA?

2. What order?

6. My findings to the aforesaid points are as under;-

Point No.1 :- In the Affirmative;-

Point No.2:- As per final order

For the following:-

REASONS

7. **Point No.1:-** The applicant/plaintiff has filed the present application seeking permission to proceed the suit case through the Spl., Power of Attorney on her behalf. She is submitted that she is 60 years old due to her old age she can not here and travel hence she intending to engage a GPA/SPA holder to prosecute on behalf of her.

8. On the other hand the defendant contending that, the application filed by the plaintiff is not at all maintainable on the admitted facts and circumstances of the case and also even in the eye of law. The GPA holder being a younger sister son of the

plaintiff he has no personal experience/knowledge regarding the relationship of the plaintiff with deceased Thammanna. In the light of this the power of attorney holder can not depose any thing on behalf of the executants of the power of attorney. In the light of this view from any angle absolutely there is no merit in the application filed by the plaintiff.

9. On perusal of the plaintiff filed memo along with some documents that the xerox copies of voter ID card, Aadhar Card, Ration Card, etc., this documents are shows that the plaintiff is more than 60 years old. Considering the age and health of the plaintiff an opinion can be formed that she might not been in such healthy condition so as to appear before the court for prosecuting the case. Therefore, I considered opinion that the applicant has made out any grounds to allowing this IA. Hence, point No.1 is answered in the Affirmative.

10. Point No.2:- For the aforesaid reasons and findings on point No.1,I proceed to pass the following:-

ORDER

IA.No.IV filed under order 3 rule 2 of CPC.,
is hereby allowed.

For plaintiff evidence.

Call on:

Civil Judge & J.M.F.C.,
K.R.Pete.