

IN THE COURT OF THE ADDITIONAL SENIOR CIVIL JUDGE  
AND JMFC AT PANDAVAPURA

Dated this 5<sup>th</sup> day of March 2025

PRESENT :

SRI.BABU N., B.com, LL.B.  
Addl. Senior Civil Judge & JMFC,  
Pandavapura.

O.S.No.9/2021

PLAINTIFF : C.K.Venkatesh.

V/s

DEFENDANTS : Vanajakshamma and others.

PARTIES IN I.A.VIII

APPLICANT : C.V.Bhavya.....GPA holder of plaintiff.

V/s

OPPONENTS : Vanajakshamma and others. ... Defendants.

PARTIES IN I.A.IX

APPLICANT : C.K.Venkateh.....Plaintiff.

V/s

OPPONENTS : Vanajakshamma and others. ... Defendants.

ORDERS ON I.A.No.VIII FILED UNDER  
SECTION 151 OF CPC AND I.A.NO.IX FILED  
UNDER ORDER 3 RULE 2 R/W/S 151 OF CPC

The plaintiff has filed the I.A.No.VIII to reopen the case permit the GPA holder to lead evidence on behalf of the plaintiff.

2. In the affidavit annexed to the application it is stated that, the plaintiff has got himself examined as PW.1 and thereafter he fell ill due to which he was unable to appear before the court and undergo cross-examination. Due to which, the court has taken the plaintiff's evidence as Nil and posted the matter for defendant's evidence and hence it is necessary to permit him to conduct the case through his daughter GPA holder.

3. The plaintiff has filed I.A.No.IX seeking permission to conduct the case through his GPA holder.

4. In the affidavit annexed to the application it is stated that, the plaintiff could not attend the court as he was not feeling well due to age factor and he had also met with an accident in which he suffered fracture of clavicle bone and is also suffering from severe cough and lungs related disease and high BP and sugar and that, he is also suffering from hearing loss and hence is unable to attend the court to lead his evidence and hence, he has executed a Power of attorney authorizing his daughter Smt C.V.Bhavya to act on his behalf in the case.

5. Both the above said applications are resisted by the defendants No.1 to 5 stating that, the plaintiff has filed the suit in the year 2021 and conducted the case till 2024 and got himself examined as PW.1 and when the matter was listed for cross-examination he remained absent without any reason and the court granted sufficient opportunity and finally taken the plaintiff's side evidence as closed and listed the matter for defendant's evidence and that, the GPA holder does not have

authority to file the application and that, the reasons assigned in support of the applications are vague and bald and that, the suit has been filed in order to cause hardship and loss and delay in securing the compensation amount awarded in LAC No.3/2013 in Sy.No.72/1 measuring 0.24 guntas which is not the subject matter of the suit and that, there are no bonafide in the applications as well as the suit and that, division has already taken place under panchayath palupatti dated 17/08/1984 and 10/09/1986 and accordingly the plaintiff and defendants are in possession and enjoyment of their respective shares and that, the plaintiff has filed the suit suppressing all these facts and that the medical documents produced by the plaintiff would show that, he was suffering from BP and sugar, he was suffering from fever and that, he was admitted on 16/01/2025 and discharged on 20/01/2025 and that, he has sustained injury to right clavicle bone and treated from 28/08/2024 to 30/08/2024 and that, the plaintiff has not produced any documents to show that, he is suffering from hearing impairment, high BP and sugar.

**6.** Following points do arise for my consideration ;

1) Whether the plaintiff has made out grounds to permit him to conduct the case through his GPA holder?

2) What order?

**7.** Having heard learned counsel for the respective parties and considered the material on record, I have answered the above points as below ;

Point No.1 : In the Affirmative,

Point No.2 : As per final order for the following ;

### **REASONS**

**8. Point No.1:-** I have looked into the application averments and the statements made in the affidavits annexed thereto. I have also considered the objections thereto. The plaintiff has filed the suit for partition. When the suit was listed for defendants' evidence, the plaintiff has filed the present two applications. Through these two applications, the plaintiff is seeking permission of the court to conduct the suit through his daughter/GPA holder. The grounds urged in so called of the applications are that, he is suffering from hearing impairment, high BP, sugar and other old age ailments and he had met with an accident in which he has suffered fracture of right clavicle bone.

**9.** The defendants have contended that, the plaintiff has not produced any documents to show that, he is suffering from high BP, sugar and other old age ailments and that, the documents produced by him only show that, the plaintiff had suffered fever and road traffic accident.

**10.** In the present case, the original plaintiff has already led his examination in chief. However, he did not tender himself for cross-examination. Therefore, the court, after having provided sufficient opportunity to PW.1 treated that, he did not tender for cross-examination and in view of the fact that, the suit is for partition, the court listed the suit for defendants' evidence. At this stage, the present two applications are filed. In support of his applications, the plaintiff has produced copies of discharge

summary issued by the Ithihas Hospital, discharge summary issued by Kennalu Hospital, Mysore and a final bill issued by Kennalu Hospital. The said documents show that, the plaintiff is about 70 years of age and that, he had suffered fracture of right clavicle and fracture of lateral wall of left orbit and hence, he has taken treatment at Kennalu Hospital, Mysore from 30/08/2023 to 01/09/2023. Further, the plaintiff has taken treatment at Ithihas Hospital, Pandavapura for rickettsial fever and low hb from 16/01/2025 to 20/01/2025. These two documents show that, the plaintiff is suffering from ill health. In view of the fact that, the plaintiff is suffering from ill health it is just and proper to permit him to conduct the suit through his daughter/GPA holder. Hence, I answer point No.1 in the Affirmative.

**11. Point No.2** : Having answered point No.1 in the Affirmative, I proceed to pass the following :-

**ORDER**

I.A.No.VIII filed under Section 151 of CPC and I.A.No.IX filed Order 3 Rule 2 r/w/s 151 of CPC are allowed.

The plaintiff is permitted to conduct the suit through his daughter/GPA holder.

(Dictated to the Stenographer on computer directly, then corrected, signed and pronounced by me in the open Court on 05.03.2025)

**(BABU N.)**  
Addl. Senior Civil Judge & JMFC,  
Pandavapura.



