

ORDERS ON IA- VI

The application under consideration i.e., IA VI is filed by the petitioner under Order XXXII Rule 3 of CPC seeking that respondent No.1(a), be appointed as the next friend of minor respondent No.1(b) and (c) for the purpose of contesting the present case on behalf of the minors in the interest of justice and equity.

2. In the affidavit accompanying IA No.I, which is filed in support of the application, the petitioner has contended that the respondent No.1(b) and (c) are minors and are under the care and custody of respondent No.1(a) i.e., their mother. On these grounds, it is sought that respondent No.1(a), who is none other than the mother of the respondent No.1(b) and (c) be appointed as the next friend of minor respondent No.1(b) and (c) for the purpose of contesting the present case.

3. Upon service of notice on the application, respondent No.1(a), appeared before the court and submitted that she has got no objections to be appointed as the next friend to the minor respondent No.1(b) and (c).

4. Heard learned Counsel for the petitioner.

5. Order XXXII Rule 3 of CPC provides that any person who is of sound mind and has attained majority and whose interest is not adverse to that of the minor can be appointed as the next friend of the minor parties to the suit. In the present suit the relief sought by the petitioner is partition and the interest of the mother cannot be considered as adverse to that of the minors, more so because the minors are under the care and custody of respondent No.1(a). Further respondent No.1(a), is major in age and upon enquiry before the court found to be of sound mind and most importantly she submitted no objections to be appointed as the next friend to represent the interest of minor respondent No.1(b) and (c) in this case.

6. Under such circumstances where respondent No.1(a), is none other than the mother of the minor respondent No.1(b) and (c) and hence his natural guardian supported by the fact that she has submitted no objections to be appointed as the next friend, this court finds no hesitation in passing the following order:

ORDER

“IA-I filed under Order XXXII Rule 3 of CPC by petitioner is hereby allowed.

Consequently respondent No.1(a), is appointed as the next friend of the minor respondent No.1(b) and (c) for the purpose of this case only.”

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Sd/-

**Prl. Judge, Court of Small Causes
& MACT., Mysuru.**