

ORDERS ON IA No.VIII

The applicant by name Bhaskar has filed I.A. No.VIII under Order 3 Rule 2(a) of CPC seeking permission to appoint himself as “General Power of Attorney Holder” in this case on behalf of defendant No.21 for prosecuting the present case.

2. In the accompanying affidavit the applicant has contended that, plaintiffs have filed this suit against the defendants seeking relief of Partition in respect of the suit schedule property. Now the suit is at the stage of evidence. The parents of defendant No.21 are aged, hence the defendant No.21 has to take care of his aged parents, so the defendant No.21 could not able to attend the Court. Hence he has executed a Special Power of Attorney in favor of this applicant to defend this case on his behalf. If the accompanying application is not allowed, the defendant No.21 will be put to irreparable loss and inconvenience. On the other hand, no hardship or loss caused to the other side if the application is allowed. Hence, prays to allow the application.

3. On the other hand, the counsel for plaintiffs filed objections to IA No.VIII contending that the application filed by the defendant

No.21 is not maintainable either in law or on facts and hence it is liable to be dismissed in limine. The defendant No.21 is the consequent purchaser of the suit schedule property. Even by knowing that the plaintiffs are also having legitimate share over the suit property, this defendant No.21 has deliberately purchased the suit property to gain unlawfully. Now the case is posted for defendant evidence. In which the contesting defendant is only the defendant No.21. That while filing the written statement he himself verified the written statement version, now all of a sudden while deposing the evidence, himself to avoid his personal appearance before this Court is filing a GPA by delegating his power to an unknown person to whom who has no knowledge about the transactions of sale deed and the local issues pertaining to the suit property. The GPA holder is not a relation or his employee who have worked in the locality of the suit property. Even the reasons sworn in the GPA is too far to the truth. The reasons stated are just a vague one. This itself reflects that the defendant No.21 not giving respect towards this Court. If at all the defendant No.21 is fair, then he himself have to appear before this Court too adduce his evidence, then only the real truth hidden beyond the beneath will sprout out. Otherwise the real truth

which has to come will be vanished. The GPA holder has not conducted the transactions in question personally. If the GPA holder is allowed to adduce evidence, it will be hurdle for the adjudication of the above case on merits. The defendant No.21 is playing cheap gimmicks by misusing the process of law to gain unlawfully. If the application is allowed, he will be put to great hardship and trouble which cannot be compensated by any other means. On the other hand, no hardship and trouble will be caused to the other side. Hence, prays to dismiss the application.

4. Heard the learned counsel for applicant and learned counsel for plaintiff on IA No.VIII.

5. This Court relied upon the following judgement:

“ILR 2015 Karnataka 635 (Sajida Banu V/s Halema Banu and others.”

When an application filed u/o 3 Rule 2-A of CPC, i.e., immediately on receiving the application in the Court and allow the application without waiting for the other side to file objection to it, a prayer should be permitted to represent by a power of attorney to conduct the case.

Hence, this Court relied the above judgment and I proceed to pass the following :

ORDER

The IA No.VIII filed by the applicant under Order 3 Rule 2(a) of CPC is hereby allowed.

Accordingly, the applicant being the GPA holder of defendant No.21 is permitted to defend the case on behalf of the defendant No.21.

For defendant evidence call on 28.11.2024

Civil Judge & JMFC
Heggadadevanakote.