

**IN THE COURT OF THE PRL.CIVIL JUDGE. & JMFC., AT HUNSUR**  
**PRESENT**

***Sri. Manu Patel B.Y., B.Com., LL.B.,***  
***Prl.Civil Judge & JMFC.,***  
**Hunsur.**

**Dated this the 16<sup>th</sup> day of February, 2023**

**O.S.No. 280/2020**

**PLAINTIFF/S : Mallegowda**

***(.....Plaintiff)***

***[Shri. P.K.R. advocate for plaintiff]***

**V/s**

**DEFENDANT/S : Ramegowda & Others**

***(.....Defendants)***

**[By Sri. M.C.K., Advocate for D-1,  
Sri S.K.S., Advocate for D.5 & 6 and  
D.2 to 4 placed Exparte)**

**I. A. NO.I**

**APPLICANT/S : Mallegowda**

***(.....Plaintiff)***

**V/s**

**OPPONENT/S : Ramegowda & Others**

***(.....Defendants)***

**ORDER ON I.A.NO.I FILED U/O III RULE 2 R/W 151 OF CPC**

This application is filed by the plaintiff under Order III Rule 2 of CPC, for appointment of GPA holder with a prayer to permit

the GPA holder to give evidence on behalf of the plaintiff and to proceed with the suit on behalf of the plaintiff in the case.

2. In the affidavit accompanying the application, it is contention of the plaintiff that the plaintiff has given a GPA in favor of his son Beeregowda, same has been produced before the court. The GPA holder is the son of plaintiff, the reason for execution of GPA has been stated in the GPA. As such, the plaintiff is unable to appear before the court. Hence, prayed to allow the application.

3. On receipt of the application learned counsel for the defendants No.5 and 6 have filed the objection. Wherein it is the contention of the defendants that the application filed by the plaintiff is not maintainable either in law or on facts and hence the same is liable to be dismissed. The applicant has sworn the false affidavit with false contents in support of the application. The application has been filed when the stage was posted for evidence. The applicant has not stated reason for execution of GPA in the affidavit. If the application is allowed the defendants No.5 and 6 will be put to irreparable loss and injury, Therefore, prays to dismiss the application.

4. Heard Learned Counsels for both the parties and perused the pleadings and documents placed on record, the following points arise for my consideration:

**POINTS**

**1 Whether the plaintiff has made out sufficient grounds to permit the GPA holder to appear on behalf of the plaintiff to do such acts and to adduce evidence on his behalf?**

**2 Whether the Power of Attorney holder of the plaintiff is competent to give evidence on behalf of the plaintiff?**

**3 What Order?**

5. My answer to the above points are as under:

**Point No.1: In the Affirmative,  
Point No.2: In the Affirmative,  
Point No.3: As per final order  
for the following:**

**:: REASONS ::**

6. **POINT No.1 to 3:** In order to avoid the repetition of the discussion, I have taken these two points for common discussion as they are inter-related. In the affidavit accompanying the application, the plaintiff has contended that he is unable to proceed with the case, as per the contentions urged in GPA. The plaintiff has relied upon GPA executed in favour of the GPA holder, wherein the plaintiff has stated that he is unable to commute and unable to hear and also suffering from Knee pain. As such he is unable to appear before the Court to adduce evidence. Further the plaintiff has sworn affidavit and produced the General Power of Attorney executed

in favour of his son, to act on his behalf. On perusal of the contention of the plaintiff, he is suffering from age related ailments. Further even though said fact has been denied by the defendants, but they have not filed any document in proof of the same. The GPA has been executed in favour of the plaintiff's son as General Power of Attorney to act on his behalf and same has been produced before the Court.

7. The General Power of Attorney is competent witness to appear on behalf of the executant/plaintiff to adduce evidence. Further Section 118 of Indian Evidence Act does not bar the power of attorney to adduce evidence on behalf of the plaintiff. Whether the power attorney has the knowledge with respect to case, can be decided at the time of cross examination by the plaintiff basing upon evidentiary value of evidence adduced by the power of attorney. The mere facts that the General Power of Attorney being issued by the plaintiff does not debar the power of attorney holder to appear on behalf of the plaintiff and to do such acts as mentioned in the General Power of Attorney.

8. Further the defendants have made bald denial of the application, without any supporting facts or the documents. Therefore no grounds to refuse the power of attorney produced on behalf of the plaintiff. **Accordingly, I answer point No.1 & 2 in the Affirmative.**

9. **POINT No.3:** In view of my above discussion and conclusion arrived at point No. 1 and 2, the application filed by the plaintiff is liable to be allowed. **Accordingly, I proceed to pass the following.**

**ORDER**

**I.A. No.1 filed filed by the plaintiff  
U/o III Rule 2 R/w Section 151 of CPC is  
hereby allowed.**

**The plaintiff, is permitted to  
appear through his power of attorney  
holder and power of attorney holder is  
permitted to do such appearances and  
such acts on behalf of the plaintiff.**

(Directly dictated to the stenographer on computer, typed by her corrected by me, then pronounced in the Open Court this the 16<sup>th</sup> day of February 2023)

**(Manu Patel B.Y.)**  
Prl. C J.& JMFC, Hunsur.

