

KAMS410013052023



IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR

PRESENT

Sri. Chandan S, B.Com., LL.B

Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 01ST DAY OF DECEMBER 2025

O.S./365/2023

Plaintiff : Devamma

-V/s-

Defendants : Jagadeesha and others

I.A.

Applicant : Devamma

--- Plaintiff

-V/s-

Opponents : Jagadeesha and others

--- Defendants

Provision under which the application is filed	U/o 3 R-2 R/w Sec.151 of C.P.C.
Relief sought for	Appointment of GPA holder
The date on which the application is filed	22.08.2025
Number of the application	9
Date on which the objections are filed by the different opponents	21.11.2025

Date on which the order is passed	01.12.2025
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ORDERS ON IA NO.10 FILED U/O 3 R-2 R/W SEC. 151 OF C.P.C.

The present application has been instituted, brought and registered before this court by the applicant/plaintiff seeking to permit the Ramesh S/o Late.Chaluvegowda to appoint and entrust in order to prosecute the suit on behalf of the plaintiff.

2. According to the applicant, he is the General Power of Attorney holder of the plaintiff, Smt. Devamma. He submits that the plaintiff has executed a valid General Power of Attorney in his favour, authorising him to represent her in all proceedings relating to the present suit. He further states that he is well acquainted with the facts and circumstances of the case and is fully aware of the nature, progress and conduct of the suit.

3. The applicant further submits that, the plaintiff, Smt.Devamma, is of advanced age and, on account of her old age, physical weakness and associated ailments, she is unable to personally appear before this Court, attend the proceedings, or regularly communicate with the counsel. Due to her frail health and restricted mobility, she is finding it difficult to approach her advocate or provide necessary instructions from time to time.

4. In view of these circumstances, she has lawfully executed a General Power of Attorney in favour of her son, the applicant Sri

Ramesh, authorizing him to appear, represent and take all necessary steps in the conduct of the suit. Therefore, the applicant prays that this Court may be pleased to permit him to represent the plaintiff as her Power of Attorney holder, and to allow this application in the interest of justice and equity.

5. Wherein on the contrary, other side, contravening, contradicting, striving, contorting, repulsion and antagonizing the said application it was taken for contest and thereby objection has also been furnished and submitted to the court. The recitals, entries, kernel, credentials and stances which has been incorporated and written over the said objections would enunciate, reflect, notify and it details that, the plaintiff has not produced any document before this Court to substantiate her alleged ill-health, infirmity, or any other valid reason that prevents her from personally appearing before the Court. In the absence of such material, the plea of old age or physical incapacity cannot be accepted.

6. The defendant further contends that, the plaintiff now seeks to examine her son, who, according to the defendant, is not personally aware of the facts and circumstances of the case and has no independent knowledge of the transactions or events in question. It is argued that if the plaintiff was genuinely unable to prosecute the suit, she ought to have executed the power of attorney at the inception of the proceedings. The present

application, filed at a belated stage, is therefore an afterthought and lacks bona fides.

7. The defendant asserts that the alleged General Power of Attorney is created only to bring on record a person who is not competent to depose regarding the facts of the suit. It is further alleged that the GPA holder has approached the Court with false assertions and without proper justification. Hence, the defendant submits that the application is liable to be rejected as not maintainable and deserves to be dismissed in limine.

8. I have heard the learned counsel appearing for the Applicant/plaintiff as well as the learned counsel representing the defendant/opponent, and carefully perused the affidavit, objections, and documents placed on record.

9. The following points arise for this court's consideration.

1) Whether applicant has made out sufficient grounds for allowing the present application?

2) What Order?

10. This court findings on the above points for consideration are as under:

Point No.1: In the Affirmative

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

REASONS

11. POINT NO.1:

It is the contention of the plaintiff that, she is an aged lady and, due to her advanced age and physical difficulties, she is unable to personally appear before this Court, approach her counsel, or effectively participate in the proceedings. It is on this ground that she seeks permission for her son, Sri Ramesh, to represent her in the suit as her duly constituted General Power of Attorney holder.

12. On the contrary the defendants contend that, the plaintiff has not produced any substantial document or medical material before this Court to establish her alleged incapacity or inability to appear. According to the defendants, the application is filed only to mislead the Court and avoid legal complications. They further contend that if the plaintiff was truly incapable of attending Court, she would have executed the GPA at the very inception of the suit in the year 2023. Hence, the present application, filed at this stage, is urged to be an afterthought and not bona fide.

13. However, on examining the pleadings, it is evident from the very cause title and the age of the plaintiff that she is indeed a senior citizen. The mere fact of her old age, coupled with the procedural nature of the application, sufficiently explains the need for assistance in prosecuting the suit. Permitting her GPA

holder to represent her does not confer any substantive rights upon him, nor does it prejudice the defendants in any manner.

14. Further, even if the GPA holder is permitted to represent the plaintiff, the burden of proving the plaintiff's case continues to remain with the plaintiff, and the GPA holder is bound by law to establish the case strictly in accordance with evidence. The defendants will retain full opportunity to cross-examine the GPA holder or the plaintiff, as the case may be, and to elicit all necessary facts during trial. Therefore, the objections raised by the defendants do not, in the opinion of this Court, create any legal impediment to grant limited relief sought in this application.

15. Accordingly, this Court is of the view that granting permission to the plaintiff's son to represent her for the conduct of the suit will not cause prejudice to the defendants, while ensuring smooth and effective progress of the proceedings. Hence, in view of the foregoing discussion, observations and deliberations this Court is of the considered opinion that the application deserves to be allowed. Hence this court inclined to answer the **point No.1 in the affirmative.**

16. POINT NO.2:

In view of the above discussions and the reasons mentioned therein this court proceeds to pass the following:-

ORDER

The application filed U/o 3 R-2 R/w Sec. 151 of C.P.C is hereby allowed.

The applicant is permitted to be represented in these proceedings on the strength of the Power of Attorney executed in his favour.

[Dictated to the Steno, transcribed by her. Corrected and then pronounced by me in the Open Court on this the 01st day of December 2025]

(Chandan S)
Prl. Civil Judge & JMFC.,
K.R.Nagar.