

**ORDERS ON I.A. FILED BY THE  
PLAINTIFF UNDER ORDER 7 RULE  
10(1) OF C.P.C**

The counsel for the plaintiff has filed this application with a prayer to return the plaint for presentation of the same before the court of Hon'ble Senior Civil Judge, K.R.Nagar.

2. In the accompanying affidavit the GPA holder of the plaintiff has stated that the plaintiff has filed suit for the relief of declaration and permanent injunction in respect of plaint schedule properties and valued the suit schedule properties at Rs.4,50,000/- as per the plaintiff's knowledge and also annexed valuation slip. After filing of written statement by the defendants, the defendants have taken specific contention that this court has no pecuniary jurisdiction to try the suit. Accordingly, an issue was also framed in this regard. He further submits that recently he got to know that the valuation of the suit schedule properties exceeds the pecuniary jurisdiction of this court as the same comes around Rs.7,00,000/- at the time of presentation of plaint. Thus, the plaintiff has sought for return of plaint to submit the same before the Hon'ble Senior Civil Judge, K.R.Nagara. If this application is allowed

no hardship would be caused to the opponent, if it is not allowed the plaintiff will be prejudiced.

3. The counsel for defendants has filed objection contending that the GPA holder of the plaintiff has no locus-standy to file this application as his application U/O 3 R 2 of CPC is rejected by this court on 06.11.2019. He further submitted that issue No.4 is framed with regard to pecuniary jurisdiction. He has denied all the other averments of the application and affidavit and prays to dismiss the application with exemplary cost as it is belated one.

4. Heard the counsel for defendant. In spite of giving sufficient opportunity the counsel for plaintiff has not addressed the arguments.

5. The point that arises for the consideration is:

Whether the plaintiff has made out sufficient grounds to return the plaint?

6. Findings to the above point is in the negative, for the following:

### **REASONS**

7. As per order dated 06.11.2019 application filed by the GPA holder is dismissed by the court

with observation that “filing of formal application under order 3 rule 2 CPC is not necessary.” That doesn't mean that his application is rejected, plaintiff is entitled to examine or prosecute herself or through her recognized agents and the Hon'ble High court of Karnataka has enumerated the said principle in a decision rendered in “**Sajida Banu Vs. Halema Banu.**” Thus, present application made by the GPA holder of the plaintiff is maintainable.

8. On perusal of application, affidavit, objection and materials available on record it reveals that issue No.4 is framed with regard to pecuniary jurisdiction of this court to try the suit. Though the defendants have contended that this court has no pecuniary jurisdiction they have not completely admitted the same in their objection and gave a clear go by to the application. On the other hand there are no sufficient materials on record to come to a conclusion that the valuation of the property exceeds the jurisdiction of this court. Therefore, there is a necessity to consider the issue No.4 as preliminary issue and conduct an inquiry in this regard. The plaintiff has produced only application and affidavit and failed to produce the documents which speaks about the

valuation of the plaint schedule properties as on date of filing of the suit. Since there is lack in documents regarding valuation of the plaint schedule property it is necessary to conduct an enquiry on issue No.4 and thus the court opines that the plaintiff has failed to establish to the satisfaction of the court at this juncture that the plaint has to be returned. Since inquiry is ordered, cost is not awarded. Therefore, in the light of the above discussion the Court answers the above point in the negative and proceeds to pass the following:

**ORDER**

The I.A. filed by the plaintiff under order 7 rule 10(1) of CPC is hereby dismissed.

No order as to cost.

Issue No.4 is treated as preliminary issue. Call on for inquiry of defendants on preliminary issue No.4 by 03.03.2022.

Sd/-

**(PAVITHRA R.)**

Prl. Civil Judge and JMFC.,  
K.R.Nagara.