

### **Orders on I.A.No.VI**

The applicant/defendant No.7 filed this I.A. No.VI u/Order III Rule 2 of CPC seeking permission to be represented through her power of attorney.

In support of her application, the defendant No.7 has produced the General Power of Attorney. Defendant No.7 in support of the application sworn to an affidavit stating that, she is old age lady and also suffering from ill-health. She is not able to attend before the court. Hence, she has executed General Power of Attorney in favour of her son authorising him to proceed with the suit on behalf of her.

Learned counsel for plaintiffs has filed objections to I.A.No... contending that, the application is not maintainable either in law or on facts. Defendant No.7 has not produced any documents to show that, she is suffering from ill-health. Absolutely, there is no valid reason to allow the application. Accordingly, the plaintiffs pray for rejection of the application.

Heard and perused.

The provision of Order III Rule 1 of CPC enables a party to appear, file application or act in a court personally without engaging a counsel and all such acts can also be performed by a recognized agent if the party executes a power of attorney in favour of such agent, this can also be done by a pleader who is duly authorized. The only exception is, 'if under any law, the party has to appear in person then neither the pleader nor the power of Attorney Holder can appear. The Hon'ble High Court of Karnataka in ***Sajida Banu Vs. Halema Banu & Others*** reported in ***ILR 2015 KAR 635***, held that, 'it is not obligatory on the part of the party to a litigation to appear in person, unless the law so requires. The party could prosecute or defend a legal proceedings through a power of attorney Holder or even a pleader. Therefore, when the statute confers such a power on a party, it has to be honored. The question of court granting permission to a party to prosecute the matter through a power of attorney holder or a pleader would not arise. However, the court cannot prevent a party

from prosecuting the litigation or defending it through a power of attorney holder or a pleader.’

In view of the above decision, no permission requires to a party to prosecute the matter through his attorney holder. Hence, the objections of plaintiff is not sustainable. Hence, I proceed to pass the following:-

**ORDER**

IA No.VI filed by the Defendant No.7  
u/Order III Rule 2 of CPC is **allowed** and she is  
permitted to represented by her power of  
Attorney Holder.

I Addl. Civil Judge & JMFC.,  
Nanjanagudu