

**IN THE COURT OF THE CIVIL JUDGE & JMFC.,
AT T.NARASIPURA**

DATED THIS THE 28th DAY OF May 2019

PRESENT : Sri. PRASHANTHA G.C.,BAL., LLM.,
Civil Judge and JMFC.,
T.Narasipura.

O.S.NO.43/2015

PLAINTIFF : Smt. Basamma

V/s

DEFENDANT : Smt. Suneetha

PARTIES IN I.A. No.IV

APPLICANT : Smt. Nagarathnamma

V/s

OPPONENTS : Smt. Sunitha Defendant

ORDERS ON I.A. No.IV

The G.P.A holder for the plaintiff has filed this I.A. under Order 3 Rule 2 of the Code of Civil Procedure to receive General Power of Attorney produced by the G.P.A. holder.

2. The G.P.A holder for the plaintiff in support of IA has filed an affidavit.

3. The defendant has filed an objection to IA No.IV praying to dismiss IA No.IV.

4. Heard the learned Counsels for the both the parties. Perused the materials available on record.

5. The following point has arisen for consideration of this Court.

Whether Applicant has made sufficient grounds to receive General Power of Attorney? If so, what order ?

6. This Court has answered the above point in the ***Affirmative*** for the following:

REASONS

7. This suit is filed by the plaintiff against the defendants for the relief of Declaration and Permanent Injunction with respect to suit schedule property.

8. The Applicant in support of the IA has filed an affidavit stating that in this case the plaintiff has executed the G.P.A dated 12.02.2018 in her favour. The plaintiff has sustained fracture of right leg bone she can

not move from place to place. The applicant alongwith the application has filed General Power of Attorney executed by the plaintiff in favour of Smt.Nagarathnamma (Applicant). Therefore, prayed to receive G.P.A.

9. Per contra the defendant in her objections as stated that Power of Attorney holder himself can not file an application. The application has to be filed by the plaintiff herself. Hence, application is not maintainable.

10. Order 3 rule 2 enables a party to appear the party himself or to appear the person holding Power of Attorney. The Hon'ble High Court of Karnataka in Sajida Banu V/s Halema Banu & others reported in ILR 2015 Kar635 held a party should be permitted to be represented by a Power of Attorney Holder or a Counsel as matter of right. Under these facts and circumstances and in view of the aforesaid principles of law laid down by the Hon'ble High Court of Karnataka. The objections raised by the defendant the application has to be filed by the plaintiff herself holds no water. Therefore, the applicant has made sufficient grounds to allow the IA. Hence, this Court answers the above point in the

Affirmative. In the result, This Court proceeds to pass the following;

ORDERS

I.A.No.IV filed by the applicant under Order 3 Rule 2 of the Code of Civil Procedure is hereby allowed.

Smt.Nagarathnamma G.P.A. holder of plaintiff is permitted to represent the plaintiff.

The General Power of Attorney filed by the applicant is taken on record.

(Typed by the Stenographer, directly in the computer on my dictation, printout taken, corrected and then pronounced by me in the open court on this the 28th day of May 2019).

(PRASHANTHA G.C.)
Civil Judge and JMFC.,
T.Narasipura.

