

**IN THE COURT OF THE Prl.. CIVIL JUDGE & JMFC.,AT
CHANNAPATNA.**

PRESENT: **SRI.MAHENDRA.M** B.A, LL.B.,

Prl. Civil Judge & JMFC,
Channapatna.

Dated this 18th day of March-2023

O.S. NO.285/2018

PLAINTIFFS : Smt.Madamma & Others

-V/s-

DEFENDANTS : Sri.Kumar & Others

I.A.No.II

APPLICANTS/

PLAINTIFFS : Smt.Madamma & Others

(By Sri.S.N. Advocate)

-V/s-

OPPONENTS/

DEFENDANTS : Sri.Kumar & Others

(By. Sri.H.K., Adv.,)

ORDERS ON I.A NO.II U/O.3 RULE 2 R/W SEC.151 OF CPC

FILED BY THE PLAINTIFFS

The learned counsel for the plaintiffs has filed an I.A. No.II u/O.3 Rule 2 r/w Sec.151 of CPC. Seeking permit to proceed with the case through G.P.A. holder.

2. The plaintiff No.4 has filed sworn affidavit in support of I.A.No.II and stated that, the plaintiffs have filed this suit for the relief of declaration and permanent injunction in

respect of suit schedule properties. The plaintiffs have executed special power of attorney in favour of 4th plaintiff to prosecute the case. **Hence allow the I.A.No.II.**

3. The defendants have filed an objection to I.A. No.II and contended that, the application filed by the plaintiffs is not maintainable under the law or on facts it is liable to be dismissed in limine. Only bad intention the plaintiffs have filed this application. The plaintiffs have not produced any medical documents. The plaintiffs are attend all the functions. **Hence reject the I.A. No.II with cost.**

4. Now the following points arise for consideration of this court:-

POINTS

- 1. Whether the I.A No.II filed by the plaintiffs is deserves to be allowed?**
- 2. What order?**

5. Heard both sides.

6. This court has perused the materials available on record. This court has answer the above said points as follows:-

Point No.1 : In the Affirmative.

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

REASONS

7. **POINT NO.1:-** The plaintiffs have filed this suit against the defendants for the relief of declaration and

permanent injunction in respect of suit schedule property. The plaintiffs have filed the present application to appointment of G.P.A. holder and proceed with the case.

8. **Under Order III Rule 2 of CPC reads as follows:**

Recognized Agents:- The recognized agents of parties by whom such appearances, applications and acts may be made or done are:-

(a) Persons holding power of Attorney authorizing them to make and do such appearances, applications and acts on behalf of such parties.

(b) Persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the court within which limits the appearance, application or Act is made or done, in matters connected with such trade or business only, where no other agent is expressing authorized to make and do such appearances, applications and Acts.

9. In the present case, the G.P.A. holder appointed by the plaintiffs, the said G.P.A. holder is appear before this court through his pleader and filed a deed of Special Power of Attorney.

10. This court has relied upon one decision of Hon'ble High Court of Karnataka reported in ILR 2015 KAR-635 between Sajida Banu V/s Halena Banu and Others. In this decision hon'ble High Court of Karnataka observed in Para No.10 and 11 this decision as follows:

“This is a recent trend in our jurisdiction, we find in almost every case, such applications are filed objections are filed, arguments are canvassed and lengthy orders running to several pages are written, either allowing or rejecting the application and thereby wasting the precious time of the court as well as the public. This ultimately results in delay in disposal of cases, which trend has to be put an end to forthwith.

Therefore, the courts before which such applications are filed shall apply their mind at the earlier point of time, i.e., immediately on receiving the application in the court and reject that application without waiting for the other-side to file objection to it. A party should be permitted to be represented by a Power of Attorney Holder. Once a power of Attorney Holder enters the witness box and gives evidence, whether that evidence has to be acted upon, whether it is a direct evidence or hearsay evidence, is to be decided by the High Court at the time of application of the evidence. On the ground that the Power of Attorney Holder has no personal knowledge of the case, he cannot be prevented from entering the witness box and from deposing”

11. The above decision is applicable to present suit to decide the present application. Even though only filed memo with S.P.A. is maintainable. The S.P.A. holder is the 4th plaintiff in this suit. If this application is allowed no hardship caused to the defendants. Hence I.A.No.II filed by the plaintiffs is deserved to be allowed. **With these observations this court answer the point no.1 in the Affirmative.**

12. **Point No.2:-** In view of above discussion this court has proceeds to pass the following :-

ORDER

I.A.No.II u/O.3 Rule 2 R/w
u/sec.151 of C.P.C. filed by the
plaintiffs is hereby allowed.

No order as to cast.

Permitted to plaintiffs to
proceed with the suit through their
S.P.A. Holder.

(Dictated to the Stenographer and transcribed by her, Order
corrected and signed by me, then pronounced by me in the Open Court
on this the 18th day of March-2023).

Sd/-
(Mahendra.M)
Prl.Civil Judge & JMFC.,
Channapatna.

Order pronounced in open court

(Vide Separate Order sheet)

ORDERS

I.A.No.II u/O.3 Rule 2 R/w
u/sec.151 of C.P.C. filed by the
plaintiffs is hereby allowed.

No order as to cast.

Permitted to plaintiffs to
proceed with the suit through their
S.P.A. Holder.

**For plaintiffs evidence
through SPA holder by 17.04.2023.**

Sd/-
Prl.Civil Judge & JMFC.,
Channapatna.