

ORDER ON I.A No.VI u/O.3 RULE 2 R/W Sec.151 OF CPC
FILED BY THE defendant

The learned counsel for the defendant has filed an I.A. No.VI u/O.3 Rule 2 r/w Sec.151 of CPC. Seeking permit to proceed with the case through Special Power of Attorney holder.

2. The Special power of Attorney holder of the defendant has filed sworn affidavit in support of I.A.No.VI and stated that, the father of the Special Power of Attorney holder i.e., defendant is old age person and who suffering from B.P, sugar, eye sight, architect, wessing problems and not keeping good health, and doctor advised him to take bed rest, as such he could not attend the court and adduce evidence. Hence defendant has appoint his son by name Karanth P.V. to proceed with the suit. Hence permit to appoint the Special Power of Attorney holder of defendant to proceed with the suit on behalf of the defendant. **Hence prays to allow the I.A.No.VI.**

3. The Plaintiff counsel submits no objection to the application.

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

POINTS

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

5. Heard the arguments.

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 defendant has filed a suit against the defendants for the relief of injunction in respect of suit schedule property. The case is posted for Defendant evidence. At that time the defendant has filed present I.A. No.VI seeking permit to appointment of Special Power of Attorney holder to lead evidence on behalf of the defendant .

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 with in 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 Special Power of Attorney holder appointed by the defendant , the said Special Power of Attorney holder is appear before this court through his pleader and filed a deed of General 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 canvased 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 an 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. The Special Power of Attorney

holder is the son of the defendant. If this application is allowed no hardship caused to the plaintiffs. Hence I.A.No.VI filed by the defendant 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 :-

O R D E R

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

No order as to cast.

Permitted to defendant to
proceed with the suit through his
Special Power of Attorney Holder.

Call on 13.03.2024.

(Usharani B.N.)
Addl. Civil Judge & JMFC.,
Channapatna.