

ORDERS ON I.A.

1. The Applicant/SPA holder of the plaintiff has filed this application under Order III Rule 2 (a) R/W/Section 151 of CPC praying to permit him to conduct the case on behalf of the plaintiff and to appear on behalf of the plaintiff as SPA holder and to proceed with the above case.

2. In the affidavit, the SPA Holder of the plaintiff has stated that the plaintiff is his mother, who has completed 70 years of age and suffering from old aged ailment and taking daily treatment and due to her old age, her hearings are impaired and eye sight feable and she is not in a position to move about, because of that reasons, it is not possible for her to appear before this court on each and every hearing and to conduct the above suit by personally attending because of that difficulty she executed a power of attorney in his favour as the plaintiff being her son and authorising him to conduct the above suit on her behalf. On the basis of the same, the plaintiff making this application, seeking permission of this court to come on the file and to conduct the above suit on behalf of the plaintiff. Thereby the plaintiff having sufficient experience and knowledge about this case,

hence the plaintiff permitted to conduct the above suit as Power of attorney holder of the plaintiff. Hence prays to allow the application.

3. Learned counsel for Defendant has filed objection to application and contended that the application is not maintainable either in law or on facts. Further submitted that the plaintiff is keeping quite well and all through she has appeared personally in the case. But, now to avoid being cross examined and fearing that truth would come out. He has resorted to this power of attorney. The plaintiff from the date of filing the suit till recently appeared in the case personally, which clearly goes to show she is quite healthy. The relief sought in the suit is personal, and presence of the plaintiff is required. The application is therefore liable to be dismissed, no harm or prejudice will be caused to the plaintiff or the applicant if the application is rejected. But if the application is allowed, the defendant would suffer irreparably. The plaintiff and the power of attorney have concluded and have come up with this theory only to deprive the defendant of cross examining the plaintiff on certain matters, Hence prays to dismiss the application.

4. Heard and perused the documents placed on record.

5. The points that arise for consideration are: -

1. Whether the Applicant/SPA Holder of the plaintiff has made out sufficient grounds to allow the application?
2. What order?

6. Now my findings on the above points are as follows: -

Point No.1 : In the affirmative

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

: R E A S O N S :

7. **POINT NO.1:** It is stated in the affidavit filed in support of application that, the father of the SPA Holder i.e., plaintiff is suffering from age-old diseases and not able to walk and not in a position to attend the Court proceedings regularly. There is no bar for the plaintiff to proceed with the case through her Special power of attorney holder.

8. Order III Rule 2 of CPC, empowers the parties to proceed with case through their agent. Hence it is the opinion of this court that the SPA Holder of plaintiff may be permitted to proceed with the case on his behalf. If the application is allowed no hardship would be caused to plaintiff. Hence for the above reasons **point No. 1 is answered in the Affirmative.**

9. **Point No.2:** In view of the above discussion on Point No. I, I proceed to pass the following:

ORDER

I.A. filed by the applicant/SPA Holder under Order III Rule 2 r/w Sec. 151 of CPC is hereby allowed.

The Plaintiff is permitted to proceed with the case through her Special power of attorney holder.

For plaintiff evidence.

Call on 21.02.2023.

Addl. Civil Judge and J.M.F.C.,
Channapatna.

