

ORDERS ON APPLICATION UNDER ORDER 3 RULE 2 r/w
Sec.151 OF C.P.C.

The applicant/defendant No.4 has filed the present application under Order 3 Rule 2 r/w Sec.151 of C.P.C and sought to permit her grandson to proceed with the case as SPA Holder on behalf of her in the ends of justice.

In the accompanying affidavit the defendant No.4 has stated that, she is suffering from old age related health issues and was unable to move out of the house and not traveling the journey. In this regard, she will not come before the court to give evidence on her behalf. Hence, she has executed the SPA to her grandson to proceed the case on behalf of the defendant No.4. Hence, prays to allow the application.

Heard and perused the materials available on record.

It is stated by the defendant No.4 is that, the defendant No.4 is unable to appear before the court due to ill-health. The law relating to agent giving evidence on behalf of principal is well settled. In fact in the case of **Sagida Bhanu V/s Halema Bhanu ILR 2015 KAR 615** Hon'ble High Court of Karnataka has held that SPA holder cannot be restrained from giving evidence. It is also held that even filing of application is also not necessary to allow SPA holder to prosecute the case. As per the aforementioned Judgment of Hon'ble High Court of Karnataka application U/Or. 3 R. 2 of CPC cannot be rejected on that ground. It is pertinent to mention that if SPA holder is unaware of the facts and transactions of the case, the defendant No.4 will take the risk of putting the person in the witness box who is not aware of the facts. Similarly, at the time of Judgment court can verify whether the evidence given by SPA holder whether it is direct or only a hearsay. In view of these facts, the present application as per Order 3 Rule 1 & 2 of C.P.C. cannot be rejected and the contents are factious which is to be determined on enclosure and the burden is on the defendant No.4. Hence, this court proceeds to pass the following:

ORDER

IA filed by the defendant No.4 under Order 3 Rule 2 r/w Sec.151 of C.P.C. is hereby allowed.

Sri. Rakesh.V S/o late.Venkataraj is permitted to prosecute the case as SPA Holder on behalf of the defendant No.4 as per SPA dated 19.08.2025.

I A.C.J & J.M.F.C., Kanakapura.