

ORDER ON I.A.NO. IV

The present application is filed by the learned advocate for the plaintiff seeking for permission to adduce evidence through GPA holder of the plaintiff under Order 3 Rule 2 of C.P.C.

2. The application is supported with the affidavit of the applicant, wherein he contended that he is the brother of the plaintiff and the plaintiff is residing at Bengaluru and it will be problem to the plaintiff to come to the Court in every hearing dates. Therefore, she had executed the GPA to appear and give evidence on her behalf. Hence, he filed this application.

3. On the contrary to this, the learned advocate for the defendant has filed his objection and contended that the application is not maintainable. The GPA is not produced at the time of filing of this suit, therefore the application is not maintainable. If this application is allowed, it will change the nature of the suit and caused irreparable injury to this defendant. Hence, he prayed to dismiss the application.

4. I have heard both sides.

5. The points that arise for my consideration are;

1). Whether the applicant has made out a ground to allow the present application?

2). What order?

6. My answer to the above points are as under;

Point No.1: In the **affirmative.**

Point No.2: As per the final order,

REASONS

7. **Point No.1:** The suit of the plaintiffs is for the relief of permanent injunction. The applicant has contended that the plaintiff is residing at Bengaluru and she is aged person and it will be problem to her to come to the Court in every hearing dates and being her brother, he is capable to give evidence before the Court. Hence he filed this application.

8. In this case, the age of the plaintiff is 61 years. Being a prudent man, any person can assume and presume the difficulty of a person who attained the age of 61 years. It can be presume that the applicant is incapable to give evidence due to her age. Further, if the application of the applicant is not allowed, it will cause inconvenience or hardship on the applicant. Hence, I answer the above point No.1 in the **affirmative.**

9. **Point No.2:-** In view of above discussions and reasons, I proceed to pass the following;

ORDER

I.A.No. IV filed by the applicant is hereby allowed.

The GPA holder is permitted to
adduce the evidence of the plaintiff.

Call on 01/02/2023.