

Orders on I.A.No.XXVI

G.P.A. holder of plaintiff No.1 filed the I.A.No.XXX under Order III Rule 2 A r/w sec.151 of C.P.C. and requested to give permission to continue the suit on behalf of plaintiff No.1. In the affidavit G.P.A holder of plaintiff No.1 namely, Nagaraj Kamath filed the affidavit and stated that, plaintiff No.1 is not in a condition to appear before the court and lead evidence due to his illness. Plaintiff No.1 executed G.P.A in his favour. If the application is allowed, no hardship will be caused to other side. Hence prayed to allow the application.

In the objection, defendant No.2 and 3 contended that, the application filed by the G.P.A. holder is not maintainable. The suit is filed by plaintiff No.1 to 9. Plaintiff No.1 need not to be examine, other plaintiffs can lead evidence. The application is to be filed by plaintiff No.1. The plaintiff No.1 is hale and healthy, he is having physical capacity to appear before the court. Hence prayed to reject the application.

The contention of defendant No.2 and 3 is, plaintiff No.1 is hale and healthy and he is having capacity to appear before the court. Application is to be filed by the plaintiff No.1 only. On plain reading the Order III Rule 2A of C.P.C. party to the suit is having right to appoint his agent to represent him. The party to the suit is liable to the consequences. The G.P.A / agent is having right to file the application. The application need not to be filed by the principal only. The further contention of defendant No.2 and 3 is, suit is filed by plaintiff No. 1 to 9. Plaintiff No.1 need not to be lead evidence, other plaintiff can lead evidence. The court is not having right to insist the plaintiff to lead evidence from any particular party. It is the choice of parties. The contention of the G.P.A holder of plaintiff No.1 is, plaintiff No.1 executed G.P.A in his favour to continue the case on his behalf. If the G.P.A holder continue the case on behalf of plaintiff No.1 and lead evidence on behalf of plaintiff No.1, plaintiff No.1 only liable for the consequences. It will not effect the

defendant No. 2 and 3. For this reason following Order is passed:

ORDER

I.A.No.XXX filed by the G.P.A holder of plaintiff No.1 under Order III RULE 2 A of C.P.C. is hereby allowed on cost of Rs.200/-.

Consequently permitted the G.P.A holder plaintiff No.1 to proceed the matter on behalf of plaintiff No.1