



Order below Exh.162 in Reg. Civil Suit No.18/2010
[CNR:MHKO050019182009]

Meena Dagadu Chhaye
Vs.
Ananda Ramkrushna Mahajan and Ors.

1. The present application is filed by plaintiffs seeking
 - 1) Permission to conduct the proceeding and
 - 2) Permission to lead evidenceby power of attorney on their behalf.
2. Defendants have filed say at (Exh.164).
3. According to plaintiffs, they are woman and therefore, it is not possible for them to remain present for each and every date to conduct the suit. Hence, it is prayed that their power of attorney Shri. Dagadu Dattatraya Chhaye be permitted to conduct the case in view of power of attorney dt.04/02/2021 executed in his favour.
4. According to defendants, the plaintiffs can very well depose in the matter. Merely because plaintiffs are women, power of attorney cannot be permitted to depose on behalf of them. Hence, it is prayed that application be rejected and plaintiffs be directed to give evidence personally.

5. Perused application and say. Heard learned advocates of both sides.

6. In support of their arguments, learned advocate for plaintiffs has relied upon the judgment of Hon'ble Bombay High Court in Mrs. Varsha A. Maheshwari Vs. M/s. Bhushan Steel Ltd. And Anr. Reported in 2011 (2) ALL MR 744. However, with due respect the issue involved in the above mentioned case law was with respect to "Right of Audience". Therefore, with due respect the ratio laid down in the above mentioned case law is not applicable to the facts and circumstances of the present suit.

7. The plaintiffs vide present application are seeking two reliefs.

- 1) Permission to conduct the proceeding and
- 2) Permission to lead evidence
by power of attorney on their behalf.

8. Considering the reason and in view of execution of power of attorney in favour of Shri. Dagadu Dattatraya Chhaye permission can be granted to conduct the proceeding by the power of attorney holder.

9. However, the power of attorney cannot be permitted to depose instead of original plaintiffs on the basis of reason that plaintiffs are women. It is settled principle of law that power of

attorney holder can appear, plead and act on behalf of the party, but he cannot depose for the principal for the acts done by the principal and not by the power of attorney holder. The present application is silent with respect to this aspect. Therefore, in the facts and circumstances of the present suit, blanket permission to depose instead of plaintiffs cannot be granted. Power of attorney can be granted permission to depose only with respect to facts within his knowledge. It is for the plaintiffs to decide the course of action for leading evidence.

10. Hence, in view of above discussion, the application is liable to be partly allowed. Therefore, I proceed to pass the following order.

ORDER

- a) Application (Exh.162) is partly allowed.
- b) The power of attorney is hereby granted permission only to appear, plead and act on behalf of the plaintiffs.
- c) The power of attorney is hereby granted permission to depose only with respect to facts which are within his knowledge.

Date :28-04-2022.

(Amit P. Kokare)
Civil Judge Senior Division,
Ichalkaranji, District Kolhapur.