

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 19TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

WRIT APPEAL NO.100284 OF 2025 (GM-CPC)

BETWEEN:

1. D.V. JYOTHI D/O D.VENKANAGOWDA
AGE. 40 YEARS, OCC. ADVOCATE,
2. D.V. MAHESHWARI W/O SANGAMESHAMALIPATIL
AND D/O D.VENKANAGOWDA,
AGE. 37 YEARS, OCC. DOCTOR,

BOTH REPRESENTED BY THEIR G.P.A. HOLDER
& FATHER SRI. D.VENKANAGOUDA
S/O RUDRAGOUDA,
ALL ARE RESIDING AT: WARD NO.1,
JOISARA KERI, NEAR SRI SHANKARAMATH,
HOSAPET ROAD, HARAPANAHALLI-583 131,
VIJAYANAGARA DISTRICT.

...APPELLANTS

(Ms. D.V. JYOTI D/O D. VENKANAGOUDA-PARTY IN PERSON)

AND:

1. CHIEF OFFICER,
MUNICIPAL COUNCIL,
HARAPANAHALLI.
2. ALTAF S/O H.DADUSAB
MAJOR, OCC. BUSINESS,
ANJANEYA BADAVANE,
HARAPANAHALLI-583 131,
BELLARY DISTRICT.

...RESPONDENTS

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE ORDER DATED 23.01.2025/ANNEXURE A/ORDER PASSED BY LEARNED SINGLE JUDGE OF THIS HON'BLE COURT, WHICH IS DEVOID THE MERITS OF WRIT PETITION NO.105044/2021 (GM-CPC) AND SET ASIDE THE ABSURD ORDER PASSED IN ORDER SHEET DATED 6.02.2021 OF LEARNED CIVIL JUDGE AND JMFC HARAPANAHALLI IN C.MISC NO.9/2013 (APPLICATION U/O 39 RULE 2A) WHICH IS AGAINST MEMO/ANNEXURE R AND ANNEXURE-J, J1 & M IN FILE OF W.P.NO.105044/2021 & ETC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED ON 03.12.2025 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **S G PANDIT J.**, DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.

CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE S G PANDIT)

The appellants, represented by their GPA holder and father Sri. D. Venkanagouda S/o Rudragouda, are in appeal under Section 4 of the Karnataka High Court Act, 1961, questioning the order dated 23.1.2025 passed by learned Single Judge in WP No.105044/2021, holding that the father of the petitioners/appellants cannot be allowed to appear as party-in-person.

2. We have not gone into the maintainability of the appeal against the order passed by the learned Single Judge in the above stated writ petition relating to GM-CPC i.e.

questioning interlocutory order passed in C.Misc.No.9/2013 under Article 227 of the Constitution of India.

3. Heard Sri. D. Venkanagouda, GPA Holder, only on the question of GPA Holder representing the appellants as party-in-person.

4. The appellants/petitioners filed WP No.105044/2021 questioning the order dated 6.2.2021 passed by the learned Civil Judge and JMFC, Harapanahalli in C.Misc.No.9/2013 dismissing the petition against respondent No.2 and for other reliefs. The petitioners were represented by their GPA holder and father. General Power Attorney dated 18.10.2011 is placed on record as Annexure-Q, which indicates that the power has been conferred upon GPA holder to appear and conduct the case on behalf of the petitioners including to depose, to defend, to file, to compound, to engage an advocate etc. However, the learned Single Judge by interim order dated 1.6.2022 refused the audience to PA holder observing that only a party to the proceedings is permitted to appear as party-in-

person subject to fulfilling the requirements of the High Court of Karnataka (Conduct of Proceedings by Party-In-Person) Rules, 2018¹. GPA Holder filed IA No.1/2022 to review the order dated 1.6.2022. However, the said IA No.1/2022 to review the order dated 1.6.2022 also came to be dismissed on 24.6.2022. But the petitioners failed to engage an advocate to represent them before the Court. Thereafter, when the writ petition came up for orders on 23.1.2025, despite giving sufficient opportunity to the GPA holder to engage the services of any counsel or to avail the services of Legal Services Authority, the same was refused by the GPA holder. The learned Single Judge, observing that the father of the petitioners cannot be allowed to appear as party-in-person, dismissed the petition, against which, the petitioners are in appeal, again represented by their GPA holder.

5. Having heard the GPA holder on the question as to whether GPA holder could represent the petitioners as party-in-person, we are of the considered opinion that the

¹ For short 'Rules, 2018'

order passed by the learned Single Judge would not suffer from any error or illegality and no ground is made out to interfere with the same.

6. As a matter of right, party-in-person cannot appear before the Court in terms of Rules, 2018. Party-in-person shall have to obtain Certificate to appear as party-in-person. Rules, 2018 defines “party-in-person”, which reads as under:

“Party-in-person means and includes a person, who intends to plead, appear and argue his or her own case before the High Court, not through an Advocate subject to these rules may include a next friend in specified circumstances.”

7. The above definition makes it clear that a person could appear and argue his/her own case before the High Court, not through an Advocate subject to the Rules, may include a next friend in specified circumstances. The application filed by the GPA holder to represent the petitioners as party-in-person was initially allowed by the Party-in-person Committee by order dated 17.6.2025. However, the same was recalled by order dated 16.9.2025

placing reliance on a decision of the Hon'ble Apex Court in the case of ***Goa Antibiotics and Pharmaceuticals Limited Vs. R.K. Chawla & Another***². However, the writ petition was placed before the learned Single Judge and the learned Single Judge, as observed above, by order dated 1.6.2022 refused the permission to the GPA holder to argue before the Court on behalf of the petitioners. Further, when the matter was listed for orders on 23.1.2025, the writ petition was disposed of only on the ground that the petitioners have failed to engage the services of counsel or to take services of the Legal Services Authority, with further observation that the father of the petitioners cannot be allowed to appear as party-in-person in the present matter.

8. The Advocates Act, 1961³ regulates the Legal Practitioners. Sections 29, 32 & 33 of the Act, 1961, which are relevant read as under:

29. *Advocates to be the only recognised class of persons entitled to practise law.—Subject to the provisions of this Act and any rules made thereunder, there shall, as from the appointed day, be only one*

² (2011) 15 SCC 449

³ For short, 'Act, 1961'

class of persons entitled to practise the profession of law, namely, advocates.

32. *Power of court to permit appearances in particular cases.—Notwithstanding anything contained in this Chapter, any court, authority, or person may permit any person, not enrolled as an advocate under this Act, to appear before it or him in any particular case.*

33. *Advocates alone entitled to practise.—Except as otherwise provided in this Act or in any other law for the time being in force, no person shall, on or after the appointed day, be entitled to practise in any court or before any authority or person unless he is enrolled as an advocate under this Act.*

9. A reading of the above provisions of the Act, 1961, makes it very clear that only advocates could practise or are entitled to practise the profession of law. Further, it also makes it clear that only a person enrolled as an advocate under the Act, 1961 is entitled to practise in any Court or before any Authority. However, Section 32 makes it clear that notwithstanding anything contained in the Chapter-IV of the Act, 1961, any Court, Authority, or person may permit any person, not enrolled as an advocate under the Act, 1961, to appear before it or him in any particular case.

10. Order III Rule 2 of CPC, insofar as appearance before the Court recognizes certain persons, which reads as under:

"2. Recognized agent—The recognized agent of parties by whom such appearances, applications and acts may be made or done are—

(a) persons holding powers-of-attorney, authorizing them to make and do such appearances, applications and acts on behalf of such parties;

(b) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts."

11. In terms of Order III Rule 2 of CPC, authorizes persons holding powers-of-attorney, to make and do such appearances, applications and act on behalf of such parties. It would not indicate as to whether power of attorney holder could conduct cases on behalf of the parties to the proceedings.

12. Before the High Court, appearance of the party-in-person is regulated by Rules, 2018. In the instant case, power of attorney holder-Sri.D. Venkanagouda, would not

fall within the definition of “party-in-person” as defined under Rule 3(3) of Rules 2018. Permission sought to appear is rejected by the Party-in-person Committee as well as the learned Single Judge. In terms of Section 32 of the Act, 1961, any Court, authority or person may permit any person, not enrolled as an advocate under the Act, 1961 to appear before it or him in any particular case. It is the Court’s discretion to permit the power of attorney holder to represent others before any Court of law. In the instant case, the learned Single Judge in his discretion has rightly refused permission taking note of the provisions of the Act, 1961.

13. The Hon’ble Apex Court in ***Goa Antibiotics & Pharmaceuticals Limited*** (*supra*), in an identical situation, where the power of attorney holder of the petitioner-company came forward to argue personally on behalf of the company, placing reliance on Section 32 of the Act, 1961, has held at paragraphs-3, 4 and 7 as under:

"3. *A perusal of the above provision shows that only a person who is enrolled as an advocate can practice in a court, except where otherwise provided by law. This is also evident from Section 29 of the Act. A natural person can, of course, appear in person and argue his own case personally but he cannot give a power of attorney to anyone other than a person who is enrolled as an advocate to appear on his behalf. To hold otherwise would be to defeat the provisions of the Advocates Act.*

4. *Section 32 of the Act, however, vests discretion in the court, authority or person to permit any person who is not enrolled as an advocate to appear before the court and argue a particular case. Section 32 of the Act is not the right of a person (other than an enrolled advocate) to appear and argue before the court but it is the discretion conferred by the Act on the court to permit any one to appear in a particular case even though he is not enrolled as an advocate.*

7. *There is a distinction between the right to appear on behalf of someone, which is only given to enrolled lawyers, and the discretion in the Court to permit a non-lawyer to appear before it. Under Sections 29 and 33 of the Act only those persons have a right to appear and argue before the court who are enrolled as an advocate while under Section 32 of the Act, a power is vested in the court to permit, in a particular case, a person other than an advocate to appear before it and argue the case. A power of attorney holder cannot, unless he is an enrolled lawyer, appear in Court on behalf of anyone,*

unless permitted by the Court under Section 32 of the Act, though of course he may sign sale deeds, agreements etc. and do other acts on behalf of someone else, unless prohibited by law.”

14. The Hon’ble Apex Court in the above decision has made it clear that right to appear on behalf of someone is given to only enrolled lawyers and the Court in its discretion could permit a non-lawyer to appear before it. The Hon’ble Apex Court has further held that a power of attorney holder cannot, unless he is an enrolled lawyer, appear in Court on behalf of anyone, unless permitted by the Court under Section 32 of the Act, 1961, though he may sign sale deeds, agreements etc. and do other acts on behalf of someone else, unless prohibited by law.

15. The order of learned Single Judge indicates that the learned Single Judge gave option to the petitioners to engage any counsel to conduct the matter, which was refused by the GPA holder and the suggestion of the Court to approach the Legal Services Authority was also refused.

16. In the above circumstances, we are of the considered opinion that there is no merit in the above appeal and in the facts and circumstances of the present case, the GPA holder cannot represent the petitioners/appellants. Accordingly, the writ appeal stands ***dismissed.***

Pending interlocutory applications, if any, are disposed of as not surviving for consideration.

**Sd/-
(S G PANDIT)
JUDGE**

**Sd/-
(GEETHA K.B.)
JUDGE**

JTR