

IN THE COURT OF SECOND ADDITIONAL SENIOR CIVIL
JUDGE AT BALLARI

**PRESENT ;SMT.PRIYANKA.T.K.
BAL.,LLB(Spl.),
II ADDL. SR. CIVIL JUDGE &
MEMBER, MACT-XI, BALLARI.
DATED THIS 25th DAY OF FEBRUARY- 2026.**

O.S NO. 91/2019

Plaintiff : Rampuradha Hanumantha Reddy S/o Late
Ramapuradha Bheemappa

[By Sri L.R.N.,Advocate]

V/S

Defendant : Rachanagoudra Padmavathi S/o Late
Veerabhadra Gouda.

[By Sri P.R.B.,Advocate]

Order on IA No. 10 U/o 26 Rule 10(A) of C.P.C

1. The defendant has filed the application under Order 26 Rule 10(A) of C.P.C seeking appointment of commissioner to know opinion of hand writing expert in Ex.P-1 to P5.

2. Along with the application defendant has filed affidavit. On the other hand learned Plaintiff counsel filed objections by restraining the application of the defendant.

3. Heard the arguments of both learned counsel and Perused materials available on record.

4. Points that would arise for final determination of this application are as follows.

1. Whether the defendant has made out sufficient grounds to appoint hand writing expert as commissioner and to know opinion of signature in Ex.P-1 to P5 and sale agreement?

2. What Order?

5. On appreciation of the available materials placed by both the parties, I answered the above points as follows.

Point No.1 - In the Negative

Point No.2 -As per final order,
for the following.

REASONS

6. POINT NO. 1:-

This interim application is filed U/o 26 rule 10(A) of C.P.C by defendant for the appointment of court commissioner to appoint hand writing expert to identify the signature of defendant in Ex.P-1 to P5 through hand writing expert. Along with the application defendant has filed affidavit stating that, the suit is for recovery of money.

7. The defendant has filed application to get the expert opinion by sending the admitted signature in registered sale agreement dated 26-11-2019 and disputed signatures ExP1 to P5 to the expert. It is averred in the affidavits annexed to the applications that, in her written statement she specifically denied the signatures appearing and contended that the signatures appearing on the promissory notes and also notes

do not belong to her and the plaintiff has forged her signatures. If the signature of disputed and admitted are compared, the style of signatures are quite different and the angles and dimensions of the letters are also different. Therefore, it is just and necessary to send the disputed and admitted signatures to the expert and to get the opinion of the expert. Hence, defendant filed IA No.10 application.

8. The plaintiff has resisted the application by filing his objections, stated that in the cross examination of PW.1 the counsel for PW.1 himself suggested that the plaintiff has obtained the signature of the defendant forcibly on the promissory note. The said statement itself shows that the signatures appearing on the promissory note belong to the defendant. Therefore, the question of sending the signature of the defendant to the handwriting expert does not arise. Moreover the defendant had filed a similar application and same was dismissed by the Hon'ble Court in IA No.7. The defendant is again filing the same application for sending the signatures of the defendant for the handwriting experts for the comparison of the signatures. In the agreement of sale dated 26.11.2019 with the promissory notes Exhibit P1 to Exhibit P5 and the promissory note has been written in the year 2016 whereas the signature which defendant is intended to compare is executed in the year 2019. This defendant may differ his signature in the sale agreement in order to defend the above case. Hence, signatures appears in the sale deed dated 26.11.2019 cannot be considered as standard

signature to compare with the promissory notes. The defendant has filed the present application only to drag the matter. The defendants have not produced any documents which consist of her earlier signatures. Therefore, he prayed to dismiss the application with costs.

9. Perused the applications objection statement and materials available on record The plaintiff has filed this suit for recovery of sum of Rs.8.85,800/-. It is the claim of the plaintiff that the defendant has borrowed sum of Rs.5,15,000/- and executed five on demand promissory notes in favor of the plaintiff. The defendant in her written statement has denied the execution of on demand promissory notes and contended that in the year 2011 her husband Veerabhadra Gowda has borrowed Rs. 9,00,000/- from the plaintiff and subsequently he paid Rs.8,00,000/- to the plaintiff in the year 2013. There is no monetary transaction between the plaintiff and the defendant. When the case is posted for hearing arguments on merits the defendant came up with the present application to send the admitted signatures and disputed signatures to the expert opinion.

10. The defendant has adduced his evidence. Further the defendant has not produced any original documents which contain her admitted signatures of the contemporary period earlier to filing of the suit. Later the document is executed between the parties. That means after filing of the suit, after filing of the written statement, when the defendant has taken

the contention that the signature on Exhibit P1 to Exhibit P5 are not of the defendant.

11. The plaintiff has filed a suit for the recovery of the money for Rs.8,85,000 from the defendant on 26.04.2019. The defendant had filed similar application under Order XXVI Rule 10A read with Section 75 of CPC to send the admitted signatures and disputed signatures to the handwriting expert as A number 7 and the same was ordered by the Hon'ble Court on 06.12.2023. By dismissing the said application filed by the defendant. The defendant has filed the similar application. But the contention is only to send the registered agreement of sale dated 26.11.2019, which is admitted signature of the defendant and disputed signatures appearing on Exhibit P1 to Exhibit P4 to the handwriting experts. The point to be considered is the suit is filed on 26.04.2019 and defendant has filed his written statement on 05.11.2019 and the document submitted by the defendant for sending the document for the handwriting expert to verify the signature is the document dated 26.11.2019. That means it is after the filing of written statement the document has been executed. That is only registered agreement of sale deed not registered sale deed. From 26.11.2019 on the agreement of sale, the registered sale deed has not been executed. That means it shows that the defendant had taken contention on 05.11.2019 in his written statement about the signature of the defendant. It shows that agreement dated 26.11.2019 may be the nominal agreement of sale. Hence, which cannot

be looked into and compared its signature with the signature on Exhibit P1 to Exhibit P5.

11. There is every possibility of changing the signatures and no useful purpose would be served by sending disputed signatures on the impugned promissory notes along with the admitted signatures appearing on the sale deed dated 26-11-2019 which is executed after filing of written statement. In such circumstances, in the absence of admitted signatures earlier to filing of suit for contemporaneous period no useful purpose will be served in sending the suit documents to an expert for comparison. Further the disputed signature were made in the year 2016 and this suit was filed in the year 2019. The registered agreement of sale is dated 26-11-2019 after filing of written statement Therefore, the possibility of disguising the style of signature cannot be ruled out. Therefore, In such circumstances in the opinion of this court

12. By the evidence of the both the parties Court can come to the conclusion. Hence Court commissioner is not necessary. As hand writing report is just an opinion not conclusive evidence. Particularly in suit for recover of money. Plaintiff has to prove only execution of promissory notes. However, there is absolutely no reason to hold that it is a hard and fact rule. Having regard to the facts and circumstances of the case.

13. After the examination of both the parties at the stage of

arguments defendant sought for appointment of court commissioner to give opinion with regard to Ex.P-1 to P5.

14. The stage of the case is for arguments evidence of both the parties has been completed but it is not necessary for the court to know the opinion of hand writing expert. defendant has to prove the same by way of documentary and oral evidence. Hence it is not necessary to know by the commissioner report as an opinion as it is not conclusive evidence. The dispute needs to be adjudicated with reference to the evidence produced by the parties. The law is well settled that Commissioner is not appointed for the purpose of gathering evidence in support of one of the parties. The purpose of the defendant seeking appointment of Commissioner is to support his plea. In my opinion, this falls in the realm of evidence, which needs to be let in by the defendant by independent evidence and not by obtaining opinion by hand writing expert in this view of the matter, I do not find any reason to appoint court commissioner.

16. The suit filed by the plaintiff is the one, for recover of money simplicitor the only issue that becomes relevant is, whether the defendant had executed promissory note ExP1 to P5. Hence the court is of the opinion as not to appoint court commissioner. Appointment of Commissioner is not necessary. Having regard to all these facts and circumstances of the case. Hence point No.1 held in Negative.

17. Point NO. 2: In result of my discussion made supra. For the ends of Justice, I proceed to pass to following:

ORDER

Application U/o 26 rule
10(A) filed by the defendant to
appoint court commissioner is
hereby dismissed with cost of Rs.
1500/-.

(Directly dictated to the Typist, on computer typed by him, corrected, signed by me, then pronounced by me in the open court on 25-02-2026)

Priyanka T.K
II Addl. Sr. CJ Ballari

