

**IN THE COURT OF THE CIVIL JUDGE AND ADDITIONAL
J.M.F.C., AT TARIKERE**

Present : SMT.PAVITHRA.M.D, B.A., LL.B.,
Civil Judge & Addl. JMFC. Tarikere.

O.S.No.162/2008

Dated this 24th day of August 2018

ORDERS ON IA.No.15

The defendant has filed application under Order 26 Rule 10(A) of CPC to issue commissioner warrant to the handwriting expert to examine the correctness of signature of defendant No.1 appearing on Ex.P4 agreement of sale, vakalath and written statement.

2. It is averred in the affidavit annexed to the application that, he has denied the Ex.P4(a) signature and the plaintiff has not examined any witness to prove the transaction as well as the signature. This Court partly decreed the suit directing the defendants to refund the money to the plaintiff. Hence, he preferred an appeal before Hon'ble Senior Civil Judge at Tarikere in RA.No.19/2015 wherein this matter is remanded to prove the signature of himself and other aspects. Hence, this application.

3. The plaintiff has objected the application in writing wherein he stated that, the application is devoid of merits and he filed at belated stage. Further the Court may compare the

signatures. Hence, he prayed to dismiss the application with exemplary cost.

4. Heard on application.

5. Perused the application in the backdrop of materials available on record. It is the claim of the defendant that, he has denied the signature appearing on Ex.P4 agreement of sale which is marked at Ex.P4(a) and the proof of the said alleged signature is very essential to prove his defence. Now, the defendant is seeking assistance of the Court to appoint the handwriting expert as Court Commissioner to compare his signatures put on vakalath, written statement along with Ex.P4(a). U/Sec.73 of the Indian Evidence Act, the Court has ample power to compare the signatures. The signatures appearing on the Ex.P4 document and other admitted documents, which are signed by the defendant can be compared together from the bare eyes. The claim of the defendant that, Ex.P4(a) signature does not belongs to him is not sufficient to send the same for scientific investigation. Further there is no direction from the Hon'ble Senior Civil Judge at Tarikere in RA.No.19/2015 to send Ex.P4 document to compare the signature of defendant No.1 along with his vakalath and written statement. Hence, I find no merit in the application filed by the defendant. Accordingly, I proceed to pass the following:

ORDER

IA.No.15 filed by the defendant Order 26
Rule 10(A) of CPC is hereby dismissed.

No order as to cost. **Sd/-**

**(PAVITHRA.M.D)
CIVIL JUDGE AND
ADDL.J.M.F.C., TARIKERE.**