

OS 35/2023

**ORDERS ON MEMO FILED BY THE
PLAINTIFF ON DATED 09.09.2025**

The plaintiff has filed this memo by contending that, Sri. ASK Advocate has subscribed his signature as a scribe to the Sale deed. But, the very same advocate is appearing for defendant No.2. It is also contended that, the said advocate was appearing on behalf of plaintiff in Criminal case. Hence, plaintiff as per professional ethics, Sri. ASK Advocate cannot appear and represent the 2nd defendant.

The said memo has been opposed by the advocate for the 2nd defendant. In the objection he has contended that, he has subscribed his signature to the sale deed. He also contended that, he was appearing on behalf of plaintiff No.1 in criminal case which was disposed off several years ago. Moreover, the advocate for defendant No.2 is not going to depose before the court by stepping into witness box. Therefore, the learned counsel for the defendant No.2 sought to reject the memo.

Heard the learned counsel for the plaintiff and defendant No.2.

Points that arises for the determination of memo.

1. Whether the plaintiff proves that, the advocate for the defendant No.2 has no locus to represent him ?

2. Whether the filing of vakalath on behalf of 2nd defendant by Sri. ASK Advocate is opposed to professional ethics ?

3. What order ?

My answer to the aforementioned points;

Point No.1 : IN THE **NEGATIVE**

Point No.2 : IN THE **NEGATIVE**

Point No.3 : as per the final order following

REASONS

Point No.1 and 2: Since these points are inextricably linked, they are taken up together for common discussion to avoid repetition of facts and findings.

As per the contention of the plaintiff, Sri. ASK Advocate had subscribed his signature to sale deed dated 20.04.2012 and he was representing the plaintiff in a criminal case, hence he cannot represent the 2nd defendant.

In the background of contention of the combating parties, on perusal of suit filed by the plaintiff, it appears that the sale deed dated 20.04.2012 and other documents are under challenge. As per the contention of the defendant No.2, Sri. ASK Advocate is representing one of the parties of the sale deed. Therefore, representing one of the parties to the sale deed cannot be considered as opposed to professional ethics. As such,

the contention of the plaintiff regarding aforementioned aspects is absolutely shoddy.

The another contention of the plaintiff is that, the advocate Sri. ASK was representing the plaintiff in a criminal case, hence he cannot appear against his his opposite parties. However, in the arguments and in the objection, the learned counsel for the defendant No.2 has contended that, the subject matter of the said criminal case is nothing to do with this case, subject matter of both cases are different and the said case is already disposed. The said contention of the advocate for the defendant No.2 is remained unquestionably enlivened. Therefore, it is not proper to restrain any advocate to represent opposite party of his previous client. If such orders are passed, then such action of restraining the advocate to represent opposite party of his previous client would render procedure stipulated in law topsy-turvy. As such, the second contention of the plaintiff is cloaked in the infirmity.

In the objection filed by the 2nd defendant, he also contended that, his advocate is not going to depose in this case with respect to sale deed. Therefore, if such situation arise and if the Sri. ASK advocate made as witness, then the contention of the plaintiff can be considered at that stage. But in this case the plaintiff has not filed any list of witness by showing Sri. ASK advocate as witness. Therefore, it is not proper to hold that his authority to represent 2nd defendant

is opposed to professional ethics. Therefore, for the praefatus reasons, this court is of the view that the memo filed by the plaintiff is not maintainable and hence same is liable to be set at nought. Accordingly, this court answering Point No.1 and 2 in the **NEGATIVE**.

Point No.3: In view of my discussion on point No.1 and 2, this Court proceed to pass following

ORDER

Memo filed by the plaintiff on 09.09.2025 is hereby dismissed.

No orders to cost.

Sd/-
Senior Civil Judge & JMFC.,
Belthangady.