

**IN THE COURT OF ADDITIONAL CIVIL JUDGE & J.M.F.C.
AT ARKALGUD**

Present :- **Smt. Chethana**, B.A., LL.B.,
Addl Civil Judge & J.M.F.C.,
Arakalgudu.

: O.S.No:281/2017:

Dated this the 01st day of April - 2023

Plaintiff :- Smt.Devikarani M.C.,
W/o. Y.P.Manjegowda,
Aged about 30 years,
R/at: Yalagathavalli Village,
Doddamagge Hobli,
Arakalgud Taluk,
Hassan District.

(By Sri. M.Y.P., Advocate)

-V/S-

Defendant :-1. Smt. Lakshamma,
W/o. Late. Nanjegowda,
D/o. Subbegowda,
Aged about 65 years,

2. Sri. Narayana,
S/o. Late. Nanjegowda,
Aged about 45 years,

3. Smt. Renuka,
W/o. Swamygowda,
D/o. Late. Nanjegowda,
Aged about 40 years,
R/o: Agrahara Village,
Doddamagge Hobli,
Arakalagudu Taluk,
Hassan District.

4. Smt. Harinakshi,

W/o. Y.C.Nagaraja,
Aged about 40 years,
Defendant Nos.1, 2 and 4
are R/o:Yalagathavalli Village,
Doddamagge Hobli,
Arakalagud Taluk,
Hassan District.

**(Def. Nos.1, 3 and 4 by Sri. S.P.J, Advocate
Def.No.2 by Sri.G.R.G. Advocate)**

IA No.VIII

Applicant : Smt.Devikarani M.C.

-Vs-

Defendant : Smt. Lakshmamma and others

Orders on IA No.VIII

This is the application filed under Oder XI Rule 14 of C.P.C by the plaintiff seeking to direct the defendant No.4 to produce the Original Sale Deed which is in his possession so as to send it to finger print Expert.

2. In the affidavit annexed to the application, it is stated that, the plaintiff has filed the suit against the defendants seeking the relief of specific performance of contract. The defendant Nos.1, 3 and 4 have completely denied the contentions of the plaintiff. In the written statement filed by defendant Nos.1, 3 and 4 and during the cross examination of Pws. 1 to 4, they have taken the stand

that, they have not executed any Sale Agreement in favour of applicant. The defendants have also denied their signatures in the agreement. Therefore, it is necessary that, the said signatures have to be sent for finger print expert. Otherwise, the plaintiff would be put to irreparable loss and injury. The defendant No.4 has not produced the original Sale Deed which was executed in his favour. But, he has produced the copy of the same. Since, the original Sale Deed contains signature of defendants, it is also necessary to get the signatures on that Sale Deed examined by the Expert. Therefore, the defendant No.4 has to be directed to produce the said original Sale deed before the Court. On these grounds, it is prayed to allow the application.

3. On the other had, the counsel for the defendant No.2 submits that, there is no objections to allow I.A.No.VIII. Despite giving sufficient opportunity, the defendant Nos.1, 3 and 4 have not filed objections to I.A.No.VIII. Hence, objections to I.A.No.VIII by defendant Nos.1, 3 and 4 taken as nil.

4. Heard arguments of learned counsel appearing for the plaintiff.

5. The following points arise for the consideration of this Court:-

- i) Whether the application deserves to be allowed?
- ii) What Order?

6. The findings of this Court to the above points are as follows:-

Point No.1: Affirmative

Point No.2: For the following:

: R E A S O N S :

7. Point No.1:- This is a suit filed by the plaintiff against the defendants seeking the relief of specific performance of contract. The applicant/plaintiff has pleaded that, the suit schedule property was originally belonging to defendant Nos.1 to 3 and they offered to sale the suit schedule property to the plaintiff. The plaintiff has agreed to purchase the said property. Both of them have entered into agreement of sale. The defendant executed agreement of sale in favour of the plaintiff dated on 24.06.2010 after receiving the advance sale consideration amount of Rs.2,05,000/-. The defendant Nos.1 to 3 have agreed to register regular Sale Deed after receiving the remaining consideration. Since, the defendant Nos.1 to 3 have denied the execution of agreement of sale and also their signatures, it is necessary to get the disputed signatures examined by expert. It is further stated that, since, the

Sale Deed executed in favour of defendant No.4 contains the signatures of defendants, it is also necessary that, the signatures in the said Sale Deed have to be examined by the expert. It is pertinent to note here that, the execution of Sale Deed in favour of Defendant No.4 by defendant No.1 is not in dispute in this Case. In the written statement filed by the defendant Nos.1,3 and 4, it is contended that, on 15.06.2015, the defendant No.1 has executed a registered Sale Deed in favour of defendant No.4 pertaining to suit schedule property and accordingly, the khata pertaining to the suit schedule property has been changed in the name of defendant No.4 and he is in possession of the said property from the date of Sale Deed. When such being the case, definitely, the said Sale Deed is in the possession of Defendant No.4. Hence, if defendant No.4 is directed to produce the said Sale Deed executed by defendant No.1 in his favour, the defendant No.4 would not be put to any hardship. On the other hand, if this application is not allowed, the applicant would be put to hardship. Therefore, this court is of the opinion that, there is merit in the application filed by the applicant. The report of the Commissioner also helps the court to final and proper adjudication of the matter in dispute. Therefore, the applicant has made out grounds to allow the

application. Accordingly, point No.1 is answered in the **Affirmative.**

8. Point No.2:- For the reasons stated while discussing point No.1, this Court proceed to pass the following:

: O R D E R :

The IA No.VIII filed by the applicant under Order XI Rule 14 of C.P.C is hereby allowed.

The Defendant No.4 is directed to produce the Sale Deed executed in his favour by Defendant No.1 before the Court.

(Dictated to the stenographer, transcribed by her, revised by me and after corrections pronounced in the open court on this the 01st day of April - 2023)

Smt. Chethana
Addl Civil Judge and JMFC.,
Arakalagodu.