

### **Order on I. A.No.XIV**

1. The counsel for plaintiff has filed the present application I.A.No.XIV U/O 26 rule 10A of CPC praying for an order for the scientific investigation to confirm that the signature of the plaintiff with the signature of one Muttuswamy found on the document produced by the defendant who claims that the plaintiff and said Muttuswamy is the different person.

2. The application is supported by the affidavit of the plaintiff and it is sworn that the plaintiff has filed the suit against the defendant for the relief of declaration and possession relating to the suit schedule property. It is further sworn that the suit schedule property is granted to the plaintiff but the defendants falsely claiming that the property belongs to another Muttuswamy who is not the plaintiff and the defendant who acquired the suit schedule property through said Muttuswamy who is not the plaintiff. It is also sworn that the defendant has produced some documents before the court which contains the signature of the plaintiff, but the defendant claims that it is not the signature to plaintiff. Therefore it is necessary to compare the signature found on the plaint, verification affidavit of the plaintiff along with the documents submitted by the defendants which are marked as Ex.D6 to Ex.D8 & Ex.D10. Hence prayed to allow the application.

3. The defendant has filed objections to the application and it is stated that the plaintiff is not the owner of the suit schedule property and name of the plaintiff is one N.Kaliyannan and the plaintiff got no other name as N.S.Muttuswamy but he put his signature in the plaint as N.S. Muttuswamy. It is further stated that the signatures found in the plaint and the signatures found in Ex.D6 to Ex.D8 & Ex.D10 are quite different. The plaintiff has tried to put signature as N.S.Muttuswamy in the plaint as well as his dispositions. It is also stated that Hon'ble court got ample power to verify the signatures and therefore prayed to reject the application.

4. Heard the arguments of counsel for plaintiff and defendants.

5.The points that arise for consideration of this court are as under;

Point No.1. Whether the plaintiff has made out sufficient grounds for in scientific investigation by comparing his signature found in the plaint by comparing the signature found in the documents produced by the defendant and which are marked as Ex.D6 to Ex.D8 & Ex.D10 ?

Point No.2. What order?

6. The findings of this court on above points are as under:

**Point No.1 :- In Affirmative**

**Point No.2 :- As per final order for the following;**

**REASONS**

**Point No.1:**

7. The plaintiff has filed the present application for scientific investigation by comparing his signature found in plaint along with the signature found on the documents produced by the defendant which are marked as Ex.D6 to Ex.D8 & Ex.D10. On perusal of the plaint averments the plaintiff has filed the present suit for the relief of declaration that is the owner of suit schedule property and for the possession of the same from the defendant. The averments made in the plaint further reveals that the plaintiff has taken up the contention that the suit schedule property was granted to him by the Government and the plaintiff is called in the name as Muttuswamy @ N.Kaliyannan. On the other hand the defendant has taken up the contention that the suit schedule property was granted in favor of one Muttuswamy S/o Late K.Nainagounder who consented before the Thashildar to change the katha in the name of present defendant and the present defendant is in possession of schedule property being the owner of the same. It is also the contention of the defendant that the name of the plaintiff is Kaliyannan and he never been called as Muttuswamy.

8. On perusal of the entire materials available on record, both parties have led their evidence and after completion of evidence, when the case is adjourned for argument, the plaintiff has come up before the court with the present application. As it is stated above the plaintiff is claiming that he is the owner of the suit schedule property and on the other hand the defendant is claiming that the suit schedule property belonged to one N.Muttuswamy who is not the plaintiff. The documents produced by the defendant shows that she produced the certified copies of grant order, affidavit, challan relating to the amount paid to the Government and a sketch relating to the suit schedule property as per Ex.D6 to Ex.D8 and Ex.D10, which contents the signature of said N.Muttuswamy. The defendant has seriously taken up the contention that the name of the plaintiff is Kaliyannan and not Muttuswamy but he tried to put his signature in the plaint as N.Muttuswamy who is not the person to whom the schedule property was granted by the Government. Now the plaintiff has filed the present application to compare his signatures found in the plaint, verification affidavit along with the signatures found on Ex.D6 to Ex.D8 and Ex.D10.

9. The counsel for the plaintiff has argued that in order to elicit the truth before the court, comparison of signature of plaintiff along with the signatures found in Ex.D6 to Ex.D8 and Ex.D10 is

very much necessary. On the other hand the counsel for defendant has argued that the court itself can compare the signatures since it got ample power to compare the same as per the Provisions of Indian Evidence Act.

10. As it is discussed above, there is serious dispute that N.Muttuswamy in whose favor the schedule property was granted is not the plaintiff and the N.Muttuswamy stated in the Ex.D6 to Ex.D8 and Ex.D10 is different person. When there is serious dispute that the plaintiff and said N.Muttuswamy whose name found in Ex.D6 to Ex.D8 and Ex.D10 is different person, then for conclusion of the real dispute between the parties, it is necessary to compare the signatures found in the plaint along with the said Ex.D6 to Ex.D8 and Ex.D10.

11.The Hon'ble Supreme Court in **O.Bharathan Vs K.Sudakaran and another - (1996) 2 SCC704**, it has been held that the court should not itself compare the disputed signatures without assistance of any expert when the signatures with which the disputed signatures are to be compared themselves not the admitted signature. Further the Hon'ble High Court of Karnataka in **(2010) 4 KLJ 223-B. Nagarajappa Vs Smt.Boramma and others**, it has been held that when there is dispute about the signatures found on any document the court itself should not compare the same. Further the Hon'ble High Court of Karnataka

in WP.No.31872-75/2014-Devaraj Shenoy Vs S.Ravindra Shenoy and others, it has been held that whenever the signatures are disputed, it is safe to refer the matter to an expert for comparison of signatures U/O 26 rule 10A CPC. The principles laid down the aforesaid rulings are aptly applicable to the facts and circumstance of the present case. In the present case since the plaintiff and defendant are claiming their title over the suit schedule property, for just conclusion of the dispute, it is necessary to compare the signature of plaintiff along with the signatures found in Ex.D6 to Ex.D8 and Ex.D10 which are admitted by the both parties. Hence by considering in the nature of the claim made by the both parties, this court comes to the conclusion that the scientific investigation by comparing the signatures is necessary and expedient in the interest of justice. Therefore for the reasons discussed above this court comes to the conclusion that the application filed by the plaintiff deserves to be allowed. Hence this court answers point No.1 in Affirmative.

**Point No 2:**

12. For the reasons discussed above this court proceeds to pass the following:

**ORDER**

**The application I.A.No.XIV filed by the plaintiff U/O 26 rule 10A of CPC is hereby allowed.**

**The plaintiff is hereby permitted to compare his signature found in plaint, verifying in affidavit along with the signature of N. Muttuswamy found in Ex.D6 to Ex.D8 and Ex.D10 by sending the same to any handwriting expert.**

**No order as to cost.**

**For further steps.**

**Call on : 15.06.2023**

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 9<sup>th</sup> day of June 2023)

(Sandesh Prabhu. B)  
Senior Civil Judge & J.M.F.C  
H.D.Kote