

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

The application I.A.No.XVII is filed by the plaintiff U/O 26 Rule 10(2) of CPC to summon the court commissioner to examine him before the court in respect of the report filed by him.

2. The application is supported by the affidavit of the plaintiff and it is sworn that the defendants have not produced any document to show the identification regarding the person to whom they are referring as Muttuswamy. Therefore the plaintiff voluntarily filed application for comparison of the signature. Hence the court commissioner was appointed for verification of the signature and he filed report to the court. It is further sworn that the court commissioner has given his report by stating that the signatures found in admitted and disputed documents are put by two different persons. It is further sworn that the report filed by the court commissioner is not conclusive but if the court commissioner is cross examined same would throw light on the errors which might lead to arrive at wrong conclusion. Hence prayed to allow the application.

3. The defendant counsel submitted no objections to the application.

4. Heard the arguments of counsel for both parties.

5. The plaintiff has filed the suit against defendant for the relief of declaration and permanent injunction. On perusal of the pleading of both parties they have disputed the signatures of one N.Muttuswamy which is found in Ex.D6 to Ex.D8 and Ex.D10. Subsequently the plaintiff had filed application

I.A.No.XIV and thereafter the said disputed documents along with admitted signatures were sent for handwriting expert to compare the same. Now the said expert has filed report before this court by stating that the signatures found in Ex.D6 to Ex.D8 and Ex.D10 are put by two different persons. The plaintiff intends to examine the said expert and thereby intends to elicit about the reason for such conclusion. By considering reasons stated in the application it is necessary to examine the said court commissioner in respect of the report filed by him, when the plaintiff has seriously disputed the report filed by him. Therefore the by considering the reasons stated in the application the same deserves to be allowed. Hence this court proceeds to pass the following:

### **ORDER**

**The application I.A.No. XVII filed by the plaintiff U/O 26 Rule 10(2) of CPC is hereby allowed.**

**The office is hereby directed to issue summons to the handwriting expert who filed the report before this court.**

**The plaintiff should bear the cost of the court commissioner for his appearance before this court and to give evidence.**

**No order as to cost.**

**Call on : 19.10.2024.**

(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**