

KAMS200002952018



IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC,
H.D.KOTE

Dated This 8th day of January 2026

PRESENT:

Sri. Mahesh B.T.,
B.Com., LL.M.,
Senior Civil Judge and JMFC,
H.D.Kote

O.S.No.60/2018

Plaintiffs :- Sri. Sannappa @ Madappa
Since Dead Reptd., by his LR's
V/s

Defendants :- Sri. Rangegowda & Others

I.A.No.28

Applicant :- Sri. Sannappa @ Madappa
Since Dead Reptd., by his LR's
...Plaintiff No.1(a)
V/s

Opponents :- Sri. Rangegowda & Others
.... Defendants

The application I.A.No.28 is filed by the plaintiff No.1(c)
U/o 26 Rule 10(A) R/w Sec.151 of CPC to appoint an
handwriting expert or fingerprint expert as a court

Commissioner to examine the genuineness of the disputed signature impression available on the Ex.D12 said to be belongs to the original plaintiff produced by the defendant No.4 along with the available Court records i.e., Vakalat, original plaint signed by the original plaintiff i.e., Sannappa @ Madappa and report the same to the Court in the interest of justice and equity.

2. The application is supported by the affidavit of the plaintiff and it is sworn that the plaintiff has filed the suit against the defendants for the relief of declaration, possession and permanent injunction. The defendants have made allegations in the written statement filed by the defendant No.1 i.e., Rangegowda on 07.09.2019 that the suit schedule property had been purchased by his father Venkategowda through registered sale deed dated 07.11.1967. The LR's of the plaintiff has denied the same by filing the rejoinder to the said strange facts stated by the defendants in their written statement. The defendants failed to produce the said document in their evidence in the earlier occasions and produced it in the later stage raise some doubts with regard to its genuineness. They have strongly denied the said document and its bearing signature or thumb impression said to be the plaintiff as stated by the defendants during the entire proceedings like cross-examinations of defendants and

they disputed the signature or thumb impressions available on record Ex.D12.

3. Further it is stated that, during the pendency of the suit defendant No.1 has suspiciously transferred or alienated the suit schedule property to one after the other i.e., to defendants No.2 to 4 by way of gift and sale though there was an order of injunction granted against the defendants whereby they have disobeyed the order of the Court instead of deposing the aforesaid facts and never placed the original sale deed in their evidence deliberately. Plaintiff father i.e., Sannappa Madappa has stated in the plaint he is the absolute owner of the suit schedule property and it is a granted land to him as per grant certificate issued by the Tahsildar, H.D.Kote. When such being the case in the grant certificate itself there is a condition not to sell the schedule property for 15 years when such being the case the question of execution of a sale deed in favour of the defendant No.1's father by the original plaintiff on 07.11.1967 does not arise and the said sale deed is definitely a concocted document and it may be impersonated by someone in the name of my father i.e., Sannappa @ Madappa and at no point of time his father has executed a sale deed and no such legal necessity has arisen for his father to sell it. The sale deed canvassed by the defendant is an impersonated or concocted, created document in order to knock off the suit schedule property.

4. Further it is stated that, the signature or thumb impression available on the Ex.D12 is not at all belongs to his father or it may be created through impersonation by the father of the defendant No.1 to become unjust enrich. Hence the signature or thumb impression available on it is necessary to verify and examine scientifically to know the genuineness of the said document and it will be helpful for the Court to arrive the proper conclusion in the case and it has thumb impression one cannot compare it by the ordinary lay man in an ordinary course it requires scientific expertness and it requires he scientific investigation thoroughly through an handwriting expert. Hence it is very important to appoint a court commissioner to investigate the genuineness of the signature available on the Ex.D12 and Court records. Hence prayed to allow application.

5. The counsel for defendant Nos.2 to 4 have filed objections to the application and it is contended that, the plaintiffs here with this suit against defendants for the relief of declaration, possession and permanent Injunction that the plaintiff is liable to be dismissed as the same is not maintainable either in law or on facts. Hence, the application is liable to be dismissed is pertinent to note that, neither, the deceased plaintiff nor his legal representative have denied the execution of the sale deed dated 7.11.1967 which is marked Ex.D12 either in the pleading or in oral evidence adduced by the plaintiff in the above case till

this day. Hence, the application filed by the plaintiff is liable to be dismissed.

6. Further it is contended that, The plaintiff has not even suggested to the witnesses examined as DWs about the execution Ex.D12 either by denying the signature of the deceased plaintiff. Hence, the application is liable to be dismissed. It is absolutely false to contend that, the plaintiff has denied the signature and thumb impression of the deceased plaintiff in the sale deed marked as Ex.D12 as claimed in para 2 of the affidavit. The statement made in para 3 of the affidavit do not survive for consideration at this juncture, for the reason the plaintiff has filed a petition before this court alleging that, these defendants have violated the interim order passed by this court deliberately, which was registered as MIS 3/2021 which was dismissed on 02.03.2024 by this court against which to the knowledge of these defendants the plaintiff have not challenged the said order either by way of petition or by any mode. Hence, the statement made in para 3 of the affidavit are hereby denied as false.

7. Further it is contended that, the plain reading of para-No. 4 of the affidavit demonstrates that, the denial of signature and thumb impression found in Ex.D12 either is an after thought or for the purpose preferring the present application. Therefore,

the application is liable to be dismissed. It is untrustworthy to claim that, the signature found in a document of the year 1967 could be compared with the signatures made in the year 2018 to find the genuineness of the signatures found in the court records. Hence on all these grounds prayed to dismiss the application.

8. Heard the arguments of counsel for both parties.

9. The points that arise for consideration of this court are as under:

P O I N T S

Point No.1. Whether the plaintiff has made out sufficient grounds for sending the Ex.D12 to handwriting expert or fingerprint expert as a court commissioner to examine the genuineness of the disputed signature or thumb impression?

Point No.2. What order?

10. 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

11. Point No.1:- The plaintiff No.1(c) has filed the present application to send the disputed Ex.D12 to handwriting expert for comparison of the signature or thumb impression of the original plaintiff produced by the defendant No.4 along with admitted signature. On perusal of the pleadings, the plaintiff has filed present suit for declaration, possession and permanent injunction. The instant application filed by the plaintiff after completion of the both side evidence. In the instant case plaintiffs have stated that suit schedule property was a granted land under Saguvalli chit infavour of the original plaintiff by name Sannappa S/o Thimmaiah and the grant certificate was also issued in his favour thus original plaintiff had acquired the title over the same. Thereafter, the defendants have dispossession from their possession, hence they have come before this court. But the defendant No.4 have taken the contention that he is the bonafide purchaser of the suit schedule property. Hence, at this juncture it has to be clear whether the thumb impression appearing in the Ex.D12 is the thumb impression of the original plaintiff. Hence, it is necessary to send the document for the FSL. The objection filed by the counsel for defendants is not sustainable. In order to put an end to the litigation and for the purpose of appreciation of all the oral and documentary

evidence available on record. It is necessary to compare the signatures/thumb impression found in said Ex.D12 along with admitted signatures. Therefore for the reasons, this court answers Point No.1 in Affirmative.

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12. Point No 2: For the reasons discussed above this court proceeds to pass the following:

ORDER

The application I.A.No.28 filed by the plaintiff No.1(c) U/o 26 Rule 10(A) R/w 151 of CPC is hereby allowed.

The plaintiff is hereby permitted to send the Ex.D12 to the handwriting expert for comparison of signature found in said document along with the admitted signatures found in the vakalath, original plaint signed/thumb impression by the original plaintiff i.e., Sannappa @ Maddappa.

No order as to cost.

For further steps.

(Dictated to the Stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in the open Court on this the 8th day of January, 2025)

Sd/-

(Mahesh.B.T)
Senior Civil Judge & J.M.F.C
H.D.Kote

