

KAMS400006452021



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC**  
**AT K.R.NAGAR**

**PRESENT:**     **Sri. Aravindra B.C., B.A., L.L.B.,**  
**Senior Civil Judge & JMFC,**  
**K.R.Nagar.**

Dated this the 22<sup>nd</sup> day of January, 2025

**O.S. No.50/2021**

**Sri. Ramegowda B.,**  
S/o Late Biligowda,  
Aged about 69 years,  
R/at: Byadarahalli village,  
Hebbalu Hobli,  
K.R.Nagar Taluk,  
Mysuru District.

**.....Plaintiff**

(By Sri. T.G., Advocate)

***-Versus-***

**1. Sri. P.Shivanna,**  
S/o Late Kempegowda  
@ Parasegowda,  
Aged about 55 years.

**2. Smt. Mangala,**  
W/o P.Shivanna,  
Aged about 45 years.

**3. Smt. Rashmi B.S.,**  
D/o P.Shivanna,  
Aged about 30 years.

**4. Smt. Shalini B.S.,**



D/o P.Shivanna,  
Aged about 28 years.

**5. Sri. Rahul B.S.,**  
S/o P.Shivanna,  
Aged about 25 years.

Defendant No.1 to 5 are  
R/at: Byadarahalli village,  
Hebbalu Hobli,  
K.R.Nagar Taluk,  
Mysuru District.

**.....Defendants**

(D1 2, 4 & 5 by Sri. P.D., Adv.)  
(D3 Exparte)

**Parties to I.A.No.III**

**Applicant** : Sri. P.Shivanna  
**..... 1<sup>st</sup> defendant**

-V/s-

**Opponent** : Sri. Ramegowda B.

**..... Plaintiff**

Provision under which the application is filed	Under Order 26 Rule 10(a) of CPC.
Relief Sought For	Seeking permission to appointment of commissioner
The date on which the application is filed	01.06.2024



Number of the application	IA No.III
The date on which the objections are filed by the different opponents	28.06.2024
The date on which the orders were passed on the said application	22.01.2025

### **ORDER ON IA.No.III**

The learned counsel for the defendant No.1 after completion of evidence of both the parties filed this application under Order 26 Rule 10(A) of CPC seeking sending Ex.P8 for handwriting expert opinion along with the signatures of defendants found in vakalath.

2. The said application is objected by the plaintiff by filing objections.

3. Heard and perused the records.

4. On the basis of the above pleadings, the following points arise for consideration of this court:



**1. Whether the application filed by the defendant No.1 under Order 26 Rule 10(A) of CPC seeking appointment of Court Commissioner i.e., a handwriting expert to examine the Ex.P8 to compare the signatures of defendants with vakalath deserves to be allowed?**

**2. What order?**

5. The findings on the above points of this court are as follows:

**Point No.1 : In the Affirmative**  
**Point No.2 : As per final order for the following :**

### **REASONS**

6. **Point No.1:-** The plaintiff has filed this suit for the relief of specific performance of contract to enforcement of agreement dated 05.11.2020 which have to be executed by the defendants with respect to the suit schedule property in favour of plaintiff.

7. On the other hand, the defendants appeared before this court through their counsel and filed written



statement, in the written statement, the defendants have denied the fact that, they have executed alleged agreement in favour of plaintiff and also denied the signatures found in the alleged agreement.

8. On the basis of rival claims of the parties, this court framed issues and trial was commenced. After completion of the evidence of the parties, the present application was filed by the defendant No.1 for appointment of court commissioner i.e., handwriting expert to compare the disputed signatures of defendants found on Ex.P8 with admitted signatures of the defendants found on vakalath.

9. Further the record shows that, the plaintiff alleged that, the defendants have entered into agreement for sale with respect to the schedule property in favour of plaintiff on 05.11.2020 by agreeing to sell the suit schedule



property for valuable consideration of Rs.6,50,000/-.

Further it alleged that, the plaintiff has paid entire amount to the defendants. Per contra, on the other hand, the defendants have denied the execution of the sale agreement in favour of plaintiff and also contended that the signatures found in the alleged agreement for sale does not belongs to them. Further, they have also denied the signatures found in the agreement during course of evidence. When, the defendants have denied the signatures found on the alleged agreement, the plaintiff has to be proved that the signature found on the Ex.P8 does belongs to the defendants. Admittedly, the suit document is not registered one. If, the suit agreement is registered, there is a presumption in favour of plaintiff. But, herein the suit agreement is not registered one.

10. According to defendants the Ex.P8 is created by the plaintiff. But, the plaintiff has denied the said



contention and submitted that, it is a genuine document. But, on perusal of the signatures found in the Ex.P8 of defendants it appears that, there is a prima-facie difference found in a signatures. If the signatures tallies with the vakalath of defendants then, the genuineness of Ex.P8 can be ascertained. There are the admitted signatures available on record which are admittedly signed by the defendants such as, vakalath of defendants. This Ex.P8 is a material document of the suit on which the defendants are disputing the execution of the document in favour of the plaintiff. In order to ascertain that, it is genuine and legal document, the appointment of the commissioner is very much necessary.

11. Therefore, in order to ascertain the truth-ness in the document, genuineness of the document, veracity of the document, examination of the signature of defendants on this Ex.P8 is very much



necessary. Even, the burden is on the plaintiff to prove the execution of the document. Therefore, it will assist the both the parties in deciding the dispute in a just and proper manner. Therefore, for proper adjudication of the dispute between the parties, it is necessary to examine the signatures of defendants on Ex.P8 by appointing the hand writing expert and by sending this document for scientific investigation for obtaining the expert opinion. The expert opinion will assist the court in ascertaining the truth in the document. Therefore, in the best interest of both the parties, this document needs to be examined by the hand writing expert. Accordingly, Point No.1 is answered in the **Affirmative.**

12. **Point No.2:-** For the above said reasons, this court proceed to pass the following:-



**ORDER**

IA No.III filed by the defendant No.1 under Order 26 Rule 10(A) of CPC seeking appointment of Court Commissioner is allowed.

The Deputy Director, Regional Forensic Science Laboratory, Mysuru is appointment as Court Commissioner to examine the signatures of defendants on Ex.P8 by comparing the same with vakalath of defendants found on the records.

The Court Commissioner fees is fixed at Rs.3,000/- tentatively.

The defendants are required to pay the Court Commissioner fees as fixed by the Truth Lab.

Office is directed to send the Ex.P8 and vakalath of defendants to the handwriting expert i.e., Truth Lab for examination of the signatures.



Both the parties are directed to submit their memo of instructions.

For payment of court fees and submit memo of instruction call on 05.02.2025.

*[Dictated to the Stenographer directly on computer, corrected and then pronounced by me in the Open Court on this the **22<sup>nd</sup> day of January, 2025]***

**(ARAVINDRA B.C.)  
SENIOR CIVIL JUDGE & JMFC,  
K.R.NAGAR.**