



ORDERS ON APPLICATION FILED U/s. 45 OF INDIAN EVIDENCE ACT

R/w Order 26 Rule 10-A R/w sec 151 of CPC

The defendant counsel has filed the application on 28-03-2025 U/s 45 of Indian Evidence Act Order 26 Rule 10-A R/w Sec 151 of CPC and prays before the court to send the sale deed dated: 15.03.1990 for scientific / forensic examination to ascertain as to verify the signature of defendant and to filed the report in this regard, in the interest of justice and equity.

2. In the application defendant stated that, the plaintiff has filed the above suit against me the defendants for the relief of specific performance of contract. Now the above suit is posted for F/C of DW.2. Here I have taken the contention that the defendant has not signed and she has not executed any alleged sale deed of in favour of plaintiff as alleged by her on 15.03.1990. The signature on the said alleged document is not the defendant.



Further defendant submits that, in view of the facts and circumstances stated above, it is absolute necessary to ascertain whether the signature in the existing in the alleged sale agreement is belonged to defendant or not is to be ascertained and verified by the Forensic Science Laboratory. Hence this Hon'ble court may also look into this aspect of the matter. On all these ground defendant prays to allow the application.

3. On the contrary the plaintiff filed objections to this application contended that, the application filed by the SPA Holder of defendant is not maintainable both in law and on facts and the same is liable to be rejected in limine.

The plaintiff further submits that, the SPA Holder of the defendant don't satisfy any of ingredient U/s 45 of Evidence Act R/w Order 26 Rule 10-A R/w section 151 of CPC. The SPA Holder of defendant has sworn to false affidavit in support of the application and



the averments that are made in para-2 of the affidavit that, the plaintiff has filed the above suit against me the defendants for the relief of specific performance of contract is absolute false and incorrect. The suit is for permanent injunction filed by the plaintiff. It is true that, now the above suit is posted for further chief of D.W.2. Further averments made in the same para that, I have taken the contention that the defendant has not signed and she has not executed any alleged sale deed in favour of the plaintiff as alleged by her on 15.03.1990, the signature of the aid alleged document is not the defendant are all absolutely false and incorrect. The first defendant has executed the registered sale deed dated 15.03.1990 infavour of one Savithramma and not plaintiff. She has filed the above suit against the defendants for permanent injunction and for other reliefs and the averments made in the plaint may kindly be read as part and parcel of this objection.



The SPA Holder of plaintiff submit further submit that, the plaintiff has not filed suit for specific performance of contract against the defendants. She has examined herself as P.W.1 and also cross examined her. The defendant has also examined himself as D.W.1 & also D.W.2 and now the above case is further chief of D-2. The SPA Holder of the defendant with an intention to drag on the proceedings and also to give unnecessary trouble to the plaintiff just to file this false and frivolous application. On all these grounds accused prays to dismiss the application filed by the complainant with exemplary cost.

4. Heard both the counsels and perused the record.
5. Perused the entire suit and on perusal of the order sheet, it clearly shows that, when the matter was posted for further chief of D.W.2, defendant come up with the present application. The matter of the year 2012. The plaintiff filed present suit against the defendant for restraining the defendant from interfering with the peaceful possession and enjoyment of the suit schedule property. But the



present application filed by the defendant and seeks direction from the court, to send the sale deed dated 15.03.1990 for forensic examination. But reason mentioned in the application is not satisfactory one. Hence, this court considering the age of the case and for the fair trial proceed to pass the following:

ORDER

The application filed by the defendant
Under Section 45 of Indian Evidence Act R/w
Order 26 Rule 10-A R/w sec 151 of CPC is
hereby rejected with a cost of Rs. 500/-

(VINAY .V. KUNDAPUR)
II Addl. Civil Judge & JMFC.,
Kanakapura.



(Order pronounced in open court
vide separate order)

ORDER

The application filed by the defendant
Under Section 45 of Indian Evidence Act R/w
Order 26 Rule 10-A R/w sec 151 of CPC is
hereby rejected with a cost of Rs. 500/-

II Addl. Civil Judge & JMFC.,
Kanakapura.

Further Chief of of DW-2 last and
final chance

Call on: 22-09-2025.

II Addl. Civil Judge & JMFC
Kanakapura.