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**(1965) 08 KAR CK 0003**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 2165 of 1963**

Banasettappa Laljichikkanna

APPELLANT

Vs

District Registrar and Another

RESPONDENT

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**Date of Decision :** 20-08-1965

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Registration Act, 1908 — Section 73, 74, 74 (1)

**Citation :** AIR 1966 Kar 310 : AIR 1965 Kar 310 : (1965) 2 MysLJ 733

**Hon'ble Judges :** T.K. Tukul, J;M. Santhosh, J

**Bench :** Division Bench

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## Judgement

Tukul, J.

(1) The petitioner by this writ petition under Article 226 of the Constitution challenges the order passed by the District Registrar in Registration Application No. 3 of 1962-63 and prays for the issue of a writ of certiorari or any other appropriate writ directing him to give the petitioner an opportunity of being heard before passing orders for registration of the document.

(2) It appears that respondent 2 presented a sale deed purported to have been executed by the petitioner for registration before the Sub-Registrar, Bangalore City. The petitioner denied having executed the document. The Sub-Registrar accepted his contention and declined to register it. Being aggrieved by that order, respondent 2 filed an application before the District Registrar u/s 73 of the India Registration Act to have the document registered. Then the District Registrar held an enquiry as required by Section 74 and passed the impugned order.

(3) The petitioner has placed before us two grievances, viz. (1) that the finding recorded by the District Registrar does not satisfy the requirements of clause (1) of Section 74; and (2) in declining to summon the witnesses required by the petitioner to be examined during the course of the enquiry, the District Registrar has violated the rules of natural justice. There is no appearance for the respondents.

(4) We find that there is considerable force in both the submissions made on behalf of the petitioner. Section 74 enjoins upon the District Registrar to hold an enquiry and come to the conclusion as to "whether a document has been executed". In the present case all that the District Registrar has stated is that he was satisfied that the petitioner had signed the sale deed. He should have come to the conclusion that the signature had been affixed by the petitioner after understanding the contents and the tenor of the document. Execution does not mean merely signing, but signing by way of assent to the terms of the contract of alienation embodied in the document.

(5) As regards the next contention, the petitioner filed an application on 5-2-1963 requesting certain witnesses to be summoned on his behalf. The District Registrar passed an order of rejection of this application on 10-6-1963. The reasons given in support of rejection of this application are that he did not find any need to recall the witnesses or summon other. Under S. 75(4) of the Act the District Registrar has been empowered to summon and enforce the attendance of witnesses and compel them to give evidence. We find from the list of witnesses mentioned in the petition that at least one or two of them are persons prima facie connected with the execution of the document. He should have summoned them and given the petitioner an opportunity of proving his contention. In rejecting this application he has denied the opportunity which he ought to have given to the petitioner under the law.

(6) For these reasons we allow the writ petition to quash the order passed by the District Registrar and direct the issue of an appropriate writ calling upon him to give the petitioner a reasonable opportunity of being heard before finally disposing of the application for registration. No costs.

(7 ) Petition allowed