



CNR: KAHC010068302022

NC: 2026:KHC:41243
W.P. No.3358/2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 5TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.3358/2022 (GM-CPC)

BETWEEN:

MR. P. VITTALRAYA SHENOY
S/O P. NARAYANA SHENOY
AGED ABOUT 61 YEARS
REPRESENTED BY GPA HOLDER
MR. PRASSANNA SHENOY
S/O P. NARYANA SHENOY
AGED 59 YEARS
R/AT 'HARI NILAYA'
KRISHNA NAGAR
PUTTUR, D K-574203.

...PETITIONER
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(BY SRI. SACHIN K. NAIK, ADV., FOR
SRI. S. RAJASHEKAR, ADV.,)

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA

AND:

1. H. DILIP JAIN
S/O MR. HOSTHIMAL JAIN
AGED ABOUT 61 YEARS
R/AT INDRADEEP HOSUE
GOPALAKRISHNA TEMPLE ROAD
MANGALURU-575016
D K DISTRICT.
2. D. INDU JAIN
W/O H. DILIP JAIN
AGED ABOUT 57 YEARS



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R/AT INDRADEEP HOSUE
GOPALAKRISHNA TEMPLE ROAD
MANGALURU-575016
D K DISTRICT.

3. DEVADAS SHETTY
S/O SHANTHARAM SHETTY
AGED ABOUT 57 YEARS
R/AT INDRADEEP HOSUE
GOPALAKRISHNA TEMPLE ROAD
MANGALURU-575016
D K DISTRICT.

...RESPONDENTS

(BY SRI. ABHISHEK MARLA, ADV., FOR R3
R1, R2 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE
ORDER DATED 15.04.2021 PASSED ON IA NO.15 IN
OS.NO.40/2016 ON THE FILE OF THE PRINCIPAL CIVIL JUDGE
AND CJM MANGALURU D.K VIDE ANNEXURE-A & ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING
IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS
UNDER:



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CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This writ petition is filed challenging the order dated 15.04.2021 passed on I.A.No.15 in O.S.No.40/2016 on the file of the Principal Senior Civil Judge and CJM, Mangaluru (for short, '***the trial Court***').

2. Heard Sri.Sachin K.Naik, learned counsel for Sri.Rajashekar, learned counsel for the petitioner and Sri.Abhishek Marla, learned counsel for the respondent No.3 and meticulously perused the material available on record.

3. The petitioner-plaintiff had filed the suit in O.S.No.40/2016 against the respondents-defendants herein seeking the relief of vacant possession of the suit schedule property and permanent prohibitory injunction against the defendants from putting up any construction in the suit schedule property. The said suit is opposed by the defendants by filing the written statement. In para 6 of the written statement, the defendants have specifically



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contended that the plaintiff had conveyed his right, title and interest over the suit schedule property to the defendant No.2 through his General Power of Attorney ('GPA') holder i.e. defendant No.1. The said sale deed conveying the right was executed on 26.07.2006.

4. The parties have led the evidence and thereafter the plaintiff filed an application under Order XXVI Rule 10(a) read with Section 45 of the Indian Evidence Act, 1872, seeking prayer to refer the admitted signature of the plaintiff on the evidence sheet for comparing with the disputed signature of the plaintiff on Ex.D3 i.e., the GPA dated 26.07.2006. The trial Court, considering the rival submissions, rejected the said application.

5. It is to be noticed that the suit filed by the plaintiff is for possession and permanent prohibitory injunction. There is no relief of declaration that the GPA and the sale deed in favour of the defendant are not



binding, and in the absence of any such prayer, mere contention of the plaintiff that the signature found on Ex.D3 is not of the plaintiff has no merit and he cannot insist that those signatures are required to be compared. It is also required to be noticed that the disputed signature on the GPA is dated 26.07.2006 and the signature in the evidence sheet is of the year 2017 and there is a gap of 11 years in between both the signatures. Therefore, the admitted signature and the disputed signature are not the contemporaneous signatures. Hence, the petitioner-plaintiff cannot seek the prayer to compare the signature on the Ex.D3 with the admitted signature on the evidence sheet.

6. The trial Court has also recorded the finding that PW2 is a notary, who has notarized the GPA, has been examined and his evidence is already on record and proceeded to reject the application. I do not find any good grounds to interfere with the impugned order passed by the trial Court.



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7. Insofar as the judgment relied on by the learned counsel for the petitioner-plaintiff in the case of ***Dr.Edward Lobo v. Mrs.Letitia Marcy R Perriera***¹ is concerned, the said decision is based on the facts and circumstances of the said case and admittedly in the case on hand the petitioner-plaintiff has not sought any relief with regard to the GPA and the suit is only for possession and prohibitory injunction, hence the said judgment has no application to the facts and circumstances of the present case.

8. For the aforementioned reasons, I am of the view that the trial Court, taking into account all the aspects, has rightly rejected the application and the same does not call for any interference. The writ petition is devoid of merits and the same is accordingly ***rejected***.

No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR/List No.: 1 Sl No.: 19

¹ WP No.2345/2022 DD 13.06.2023