



CNR: KAHC010021332019

NC: 2026:KHC:51069
WP No. 4093 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 4093 OF 2019 (GM-CPC)

BETWEEN:

1. KUMARA D L
S/O LATE LAKSHMANA,
AGED ABOUT 32 YEARS,
R/O DASANADODDI VILLAGE,
B.G. PURA HOBLI, MALAVALLI-TQ,
MANDYA-571401.

...PETITIONER

(BY SRI. RAJA .L, ADVOCATE)

AND:

1. MAHADEVAIAH
S/O LATE CHIKKVENKATAIAH @ SANNAIAH,
AGED ABOUT 57 YEARS,
2. D C RAMANNA
S/O LATE CHIKKVENKATAIAH @ SANNAIAH,
AGED ABOUT 68 YEARS,
R/O 4TH CROSS, 4TH MAIN,
SHANTHI NAGAR, JSS NEW BHAVAN,
MYSORE CITY-570001.
3. RAJU
S/O LATE CHIKKVENKATAIAH @ SANNAIAH,
AGED ABOUT 54 YEARS,
4. SHESHAMURTHY
S/O LATE CHIKKVENKATAIAH
SINCE DEAD BY LR_s

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SACHIN SHANKAR MAGADUM
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4(A) SMT. SUNDARAMMA
W/O LATE SHESHAMURTHY
AGED ABOUT 46 YEARS
R/O DASANADODDI VILLAGE,
B.G.PURA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT-571401.

4(B) HARSHITHA D.S.
D/O LATE SHESHAMURTHY
AGED ABOUT 25 YEARS
R/O DASANADODDI VILLAGE,
B.G.PURA HOBLI, MALAVALLI TALUK,
MANDYA DISTRICT-571401.

5. PANDITHAHALLI GRAM PANCHAYATH
PANDITHAHALLI, B.G.PURA HOBLI,
MALAVALLI-TQ, MANDYA-571401.

...RESPONDENTS

(BY SRI. G. CHANDRASHEKARAI AH AND SRI. YOGISH K.S.,
ADVOCATE FOR R1;

V/O DATED 14.12.2021, NOTICE TO R3 IS HELD
SUFFICIENT;

V/O DATED 02.09.2025, NOTICE TO R4(A) IS HELD
SUFFICIENT;

V/O DATED 19.08.2026, NOTICE TO R4(B) IS HELD
SUFFICIENT;

R2 AND R5 SERVED AND UNREPRESENTED)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER
PASSED BY THE LEARNED 1ST ADDL. CIVIL JUDGE & JMFC,
MALAVALLI, MANDYA IN O.S.NO.18/2007 ON IA NO.39 DATED
17.12.2018 VIDE ANNEXURE-G AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

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ORAL ORDER

Captioned writ petition is filed by the plaintiff, calling in question the order passed by the learned Trial Judge rejecting I.A.No.13 filed by the petitioner under Order XXVI Rule 10-A read with Section 151 of the Code of Civil Procedure, 1908 (for short, "CPC"), seeking appointment of a fingerprint expert for examination of the disputed signature of the plaintiff's father appearing on Ex.C4.

2. Learned counsel for the petitioner has been heard. The impugned order and the pleadings on record have been perused.

3. The controversy between the parties, as borne out from the pleadings, is required to be noticed. The plaintiff asserts that the suit schedule property is ancestral property and, on such premise, seeks declaration and consequential injunction. The defendants, on the other hand, claim right and title over the suit schedule property

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on the strength of an alleged consent deed dated 02.04.2005.

4. It is therefore the defendants who have set up the alleged consent deed dated 02.04.2005 as the source of their right and title. The said document is admittedly an unregistered document and has been secured through witness summons and marked as Ex.C4. Merely because the document has come on record and has been marked in evidence, the burden resting on the defendants to establish the nature, execution, admissibility and legal effect of the said document does not stand discharged.

5. The defendants, having founded their claim upon Ex.C4, are required to establish, in accordance with law, that the plaintiff's father executed the said document and, further, that the document is legally capable of conveying or creating the right and title asserted by them. The evidentiary value and legal effect of Ex.C4, including the question as to whether such an unregistered document



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could have the effect claimed by the defendants, are matters which necessarily fall for consideration at the stage of final adjudication, after a full-fledged trial.

6. In the aforesaid backdrop, this Court is unable to appreciate the necessity for the plaintiff to seek appointment of a fingerprint expert to disprove the signature appearing on Ex.C4. The burden, in the first instance, lies on the defendants, who rely upon the document, to establish its execution and its legal efficacy. The plaintiff cannot be called upon to undertake an exercise which, on the facts of the present case, does not advance the adjudication of the principal controversy.

7. More importantly, even assuming that the disputed signature were to be established as that of the plaintiff's father, such expert opinion by itself would not establish the defendants' title over the suit schedule property. The defendants would still be required to establish the legal character and effect of the alleged



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consent deed and satisfy the requirements of law governing transfer or creation of rights in immovable property, including the principles embodied in Section 5 of the Transfer of Property Act, 1882, as applicable to the nature of the transaction pleaded by them.

8. Thus, the proposed exercise of obtaining an expert opinion on the disputed signature, in the peculiar facts and circumstances of the present case, is neither necessary nor germane to the adjudication of the substantive dispute between the parties. The learned Trial Judge has, therefore, committed no error in declining to entertain I.A.No.13.

9. It is made clear that the observations contained herein are confined to the question as to the necessity of obtaining an expert opinion at this stage and shall not be construed as an expression of opinion on the admissibility, execution, genuineness, validity or legal effect of Ex.C4. All such questions are left open to be adjudicated by the



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learned Trial Judge on the basis of the pleadings and evidence available on record.

10. The learned Trial Judge shall proceed with the suit and adjudicate the rights of the parties uninfluenced by any observations made in this order touching upon the merits of Ex.C4.

For the foregoing reasons, the writ petition being devoid of merit, is ***dismissed***.

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SACHIN SHANKAR MAGADUM
Verified

(SACHIN SHANKAR MAGADUM)
JUDGE

ALB,
List No.: 1 Sl No.: 25