



CNR: KAHC010035772021

NC: 2026:KHC:40206
WP No. 1753 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO. 1753 OF 2021 (GM-CPC)

BETWEEN:

P A NARASIMHA MURTHY
S/O P M ASHWATHA REDDY
AGED ABOUT 48 YEARS,
RESIDING AT PATRENAHALLI VILLAGE
KASABA HOBLI
CHIKKABALLAPURA TALUK - 562 101

...PETITIONER

(BY SRI. JAGADISH J.R., ADVOCATE)

AND:

MR. SHASHI KIRAN
S/O. GOPALA KRISHNA
AGED ABOUT 39 YEARS,
R/AT BYATARAYANAPURA
BENGALURU - 560 092

...RESPONDENT

(BY SRI. JAI PRAKASH REDDY M., ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO-QUASH THE ORDER
DATED 15.01.2021 PASSED IN OS.283/2008 BY THE PRL.
JUNIOR CIVIL JUDGE, CHIKKABALLAPURA VIDE ANNEX-G AND
CONSEQUENTLY ALLOW THE INTERIM APPLICATION FILED BY

Digitally signed
by
SHARADAVANI
B
Location: High
Court of
Karnataka



THE PETITIONER UNDER SECTION 151 OF CODE OF CIVIL VIDE ANNEX-E.

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

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

ORAL ORDER

This writ petition is filed challenging two orders, both dated 15.01.2021 passed in O.S.No.283/2008 by the Principal Civil Judge and JMFC, Chikkaballapura (hereinafter referred to as the 'trial Court' for short).

2. Heard Sri J. R. Jagadish, learned counsel appearing for the petitioner and Sri Jai Prakash Reddy M, learned counsel appearing for the respondent.

3. The respondent/plaintiff filed O.S.No.283/2008 seeking the relief of specific performance of the agreements of sale. In the said suit, the



petitioner/defendant filed a written statement and the parties have led their evidence. Thereafter, the defendant filed applications under Order XVIII Rule 17 of the Code of Civil Procedure (for short, 'CPC') seeking to reopen the stage of the case and under Section 151 of CPC to recall PW-1 and PW-3 for further cross-examination. The defendant also filed another application under Order XXVI Rules 9 and 10(A) read with Section 151 of CPC seeking appointment of a handwriting expert as a Court Commissioner. The trial Court, by two separate orders dated 15.01.2021, rejected the applications.

4. The application filed by the defendant seeking prayer to recall PW-1 and PW-3 for further cross-examination on the ground that he could not cross-examine the said witnesses on the aspect that one Sri P. A. Narasimha Murthy, was a businessman and had collected signed stamp papers from the defendant for the purpose of availing loan and, the said Sri P. A. Narasimha



CNR: KAHC010035772021

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WP No. 1753 of 2021**

Murthy, in collusion with PW1, created the agreement of sale. The trial Court, under the impugned order dated 15.01.2021, rejected the said application by recording reasons that filing such an application at the stage of arguments amounts to filling up of lacunae in the evidence.

5. It is to be noticed that it is the consistent stand of the defendant in the written statement as well as in the evidence that the plaintiff had misused the signed stamp papers of the defendant, which were given by him for the purpose of obtaining a loan. When things stood thus, nothing prevented the defendant to cross-examine PW-1 and PW-3 on the aforesaid issues during the stage of evidence. The affidavit accompanying the application does not indicate the reason as to why such cross-examination was not conducted earlier on the aforesaid issues. In the absence of any such cause being shown in the affidavit, the trial Court has rightly rejected the application. I do not



find any good ground to interfere in the order of the trial Court.

6. The defendant also filed an application under Order XXVI Rules 9 and 10(A) of CPC seeking prayer to appoint a Court Commissioner. In other words, the defendant sought to refer the agreements dated 07.06.2007 and 29.08.2007 to a forensic expert to ascertain whether the plaintiff and defendant had signed the aforesaid agreements at the same point of time or at different points of time. It is further contended that the signature of Sri P.A. Narasimha Murthy and Sri N. C. Munireddy found in the agreement as witnesses were in the same ink or in different ink. The defendant also sought a prayer to compare the signatures of the plaintiff, defendant and witnesses on the agreement. The said application was opposed by the plaintiff. The trial Court, vide order dated 15.01.2021, rejected the said application.



CNR: KAHC010035772021

7. It is required to be noticed that the suit is filed by the respondent herein for specific performance of the agreement, and the burden lies on him to prove the execution and contents of the agreement. The defendant is seeking appointment of a Court Commissioner on the premise that he had signed the stamp papers and handed them over to Sri P.A. Narasimha Murthy for the purpose of obtaining the loan, and that the said person, in collusion with the plaintiff, created the agreement of sale. The said factual assertions of the defendant are required to be proved by evidence, and he cannot seek for appointment of a Court Commissioner, as he has clearly admitted his signature on Ex.P2 and Ex.P4, as observed by the trial Court while rejecting the application.

8. It is also required to be noticed that the defendant had earlier made a similar attempt seeking appointment of a Court Commissioner to verify the signatures, which was rejected by the trial Court and the



**NC: 2026:KHC:40206
WP No. 1753 of 2021**

CNR: KAHC010035772021

same was affirmed by this Court in W.P.No.645/2015.
Hence, filing of consecutive application with a different
prayer cannot be entertained.

9. In view of the above, the writ petition is devoid
of merits and the same stands ***rejected***.

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

SHS
List No.: 1 Sl No.: 18