



CNR: KAHC010078752017

NC: 2026:KHC:48989
WP No. 28691 of 2017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 28691 OF 2017 (GM-CPC)

BETWEEN:

SRI. A UMESH ACHARYA
SINCE DEAD REP. BY HIS LRS

1. SMT. SHOBHA U. AHCARYA
W/O LATE A. UMESH ACHARYA
AGED ABOUT 59 YEARS
2. SHWETHA RATHNAKAR
D/O LATE A. UMESH ACHARYA
W/O RATHNAKAR
AGED ABOUT 39 YEARS
3. SHARATH ACHARYA
S/O LATE A. UMESH ACHARYA
AGED ABOUT 36 YEARS
4. SHAMANTH ACHARYA
S/O LATE A. UMESH ACHARYA
AGED ABOUT 33 YEARS

ALL ARE RESIDING AT NO.60,
2ND MAIN, 1ST CROSS
VINAYAKA LAYOUT, ABBIGERE
BANGALORE - 560 090.

...PETITIONERS

(BY SRI. RAGHAVENDRA S.H, ADVOCATE)

Digitally signed
by
ANNAPURNA
G
Location: High
Court of
Karnataka





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AND:

1. SRI. MUNIVENKATAPPA @ PAPA REDDY
S/O MUNIRAMA REDDY
AGED ABOUT 55 YEARS
CHOKKANAHALLI VILLAGE
JAKKUR POST, YELAHANKA HOBLI
BANGALORE - 560 064.
2. SRI. H. ASIF ALI NIAZI
S/O H. KHAJA HUSSAIN HAZI
AGED ABOUT 40 YEARS
R/O NO. 8/5, 4TH CROSS
KASUR NAGAR, H.M.T LAYOUT
R.T. NAGAR, BANGALORE - 560 032.

...RESPONDENTS

(BY SRI. S. RUDRARADHYA, ADVOCATE FOR R1;
VIDE ORDER DATED 01.07.2025, NOTICE TO R2 IS HELD
SUFFICIENT)

THIS W.P IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE
ORDERS DTD 7.6.2017 & 21.6.2017 PASSED IN
O.S.NO.3041/2005 BY THE COURT OF THE PRINCIPAL SENIOR
CIVIL JUDGE AND BANGALORE RURAL DISTRICT AT
BANGALORE VIDE ANNEXURE-G ON IA NO.7 & 8 IN THE SAID
O.S.NO.3041/2005 AND FURTHER REJECTING IA NO.10
WITHOUT APPRECIATING THE REASONS MADE OUT IN THE
SAID APPLICATION FILED BY THE PLAINTIFFS/PETITIONERS
AND ETC.,



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THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The captioned writ petition is filed by the plaintiffs calling in question the orders passed by the learned Judge on I.A.Nos.7 and 8, whereby the applications filed by the plaintiffs seeking reopening of their evidence and permission to lead further evidence by securing the thumb impression register maintained at the time of registration of the sale deed dated 24.08.2001 executed in favour of defendant No.3-Mohammed Ismail, came to be rejected.

2. The plaintiffs have instituted the suit seeking declaration that they are the absolute owners of the suit schedule property and for consequential reliefs, including cancellation of the sale deed dated 24.08.2001 allegedly obtained by defendant No.3-Mohammed Ismail and the subsequent sale deeds executed by defendant No.3 in favour of defendant No.2 dated 27.01.2004 and by defendant No.2 in favour of defendant No.1 dated 07.03.2005. The pleadings



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disclose that the plaintiffs' primary grievance is against the sale deed dated 24.08.2001. According to the plaintiffs, the said sale deed was not executed by the original plaintiff namely A. Umesh Acharya, and that defendant No.3 had obtained the document by practising fraud and through impersonation.

3. At the outset, this Court finds it necessary to take note of a significant and undisputed circumstance. The suit, as against defendant No.3, who is the beneficiary under the first sale transaction dated 24.08.2001, already stands dismissed. The cause title in the present writ petition itself discloses that the proceedings against defendant No.3 have come to an end and that the plaintiffs have not taken any steps for revival of the suit insofar as defendant No.3 is concerned. Defendant No.3 is, therefore, the very person who is alleged to have procured the first sale deed by fraud and impersonation.

4. It is in the backdrop of these circumstances that the correctness of the impugned orders requires consideration. The learned Judge has rejected I.A.Nos.7 and 8 essentially on the ground that the applications were filed when the matter had already been set down for the plaintiffs' arguments. Though the



impugned order is cryptic and does not assign elaborate reasons, this Court, while exercising supervisory jurisdiction, is required to examine the nature of the relief sought in the applications and the circumstances in which the applications came to be filed.

5. The suit was instituted in the year 2005. The original plaintiff, A. Umesh Acharya, specifically asserted that he had not executed the sale deed dated 24.08.2001 and that the said document had been brought into existence by defendant No.3 by fraud and impersonation. If the plaintiffs genuinely intended to establish that the executant of the sale deed was an impersonator and that the thumb impression appearing on the document did not belong to the original plaintiff, the thumb impression register maintained by the registering authority was a material piece of evidence which could have been sought at an appropriate stage of the proceedings.

6. No satisfactory explanation is forthcoming as to why the plaintiffs did not seek production or examination of the thumb impression register during the course of their evidence. The affidavit filed in support of the applications does not



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disclose any cogent or acceptable reason constituting due diligence for the failure to secure the said material earlier. The plaintiffs have also not sought any scientific examination of the disputed thumb impression during the course of the trial. Even during the stage of recording of the evidence of the defendants, if the plaintiffs were of the view that the relevant original documents or material evidence were not being produced, appropriate steps could have been taken before the trial Court.

7. The applications, therefore, came to be filed only after the matter had been posted for arguments. At such a belated stage, reopening of the evidence cannot be claimed as a matter of right. The power to reopen evidence is discretionary and is required to be exercised only when the applicant establishes sufficient cause and demonstrates that the evidence sought to be introduced is necessary for adjudication of the real controversy and could not, despite due diligence, have been produced earlier.

8. More importantly, in the facts of the present case, there is a fundamental impediment to granting the relief sought by the plaintiffs. The entire challenge to the subsequent



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transactions traces its origin to the sale deed dated 24.08.2001 executed in favour of defendant No.3. It is defendant No.3 who is alleged to have obtained the said sale deed by fraud and impersonation. Yet, the suit against defendant No.3 has already been dismissed and the plaintiffs have not sought revival of the proceedings against him.

9. In such circumstances, even if the plaintiffs are permitted to secure the thumb impression register and lead further evidence, the evidentiary exercise would not serve any meaningful purpose in the absence of the very party against whom the principal allegation of fraud and impersonation is made. The first transaction dated 24.08.2001 is the foundation for the subsequent transactions dated 27.01.2004 and 07.03.2005. Once the proceedings against defendant No.3 have been brought to an end, the plaintiffs cannot, in the present state of the proceedings, seek to reopen their evidence merely for the purpose of establishing an allegation against a party against whom the suit itself no longer survives.

10. This Court, therefore, is of the considered view that the writ petition is liable to fail on two independent grounds.



Firstly, the plaintiffs have failed to demonstrate due diligence or furnish any satisfactory explanation for not securing the thumb impression register at an earlier stage, despite the dispute regarding the execution of the sale deed having been the very foundation of the suit from its inception. Secondly, and more fundamentally, the suit already stands dismissed against defendant No.3, the beneficiary under the first and foundational sale deed dated 24.08.2001, and the plaintiffs have not taken any steps to revive the proceedings against him. Consequently, permitting reopening of evidence at this stage would not advance the adjudication of the controversy in any meaningful manner.

11. The fact that the learned Judge has not assigned elaborate reasons while rejecting I.A.Nos.7 and 8, by itself, would not warrant interference by this Court under Article 227 of the Constitution of India when, on an examination of the entire factual and procedural background, the ultimate conclusion of the learned Judge does not call for interference.



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12. For the foregoing reasons, this Court finds no ground to interfere with the orders passed by the learned Judge on I.A.Nos.7 and 8. The writ petition is accordingly ***dismissed***.

Pending interlocutory applications, if any, do not survive for consideration and stand disposed of accordingly.

**Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE**

HDK
List No.: 1 Sl No.: 5