



CNR: KAHC010203512020

NC: 2026:KHC:51419
WP No. 13666 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 13666 OF 2020 (GM-CPC)

BETWEEN:

M/S. EXPRESS CONSTRUCTIONS COMPANY
A PARTNERSHIP FIRM
HAVING ITS OFFICE AT NO. 81,
BENSON TOWN, BANGALORE
REPRESENTED BY ITS GPA HOLDER
MR. SYED HAROON RASHEED.

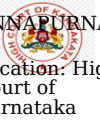
...PETITIONER

(BY SRI. K.V. SHYAMAPRASADA, ADVOCATE)

AND:

1. M. MUJAHID ALI BAIG
AGED ABOUT 53 YEARS,
NO 15-C, II STREET
CHAMUNDI CHOWK ROAD,
CIVIL STATION, BANGALORE - 01.
2. M. NAJMUS SEHER
AGED ABOUT 50 YEARS,
NO. 546, RAZA E ELAHI
26TH MAIN, J.P. NAGAR I PHASE,
BANGALORE - 78.
3. MR. M MAQSOOD ALI BAIG
AGED ABOUT 44 YEARS,

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by
ANNAPURNA
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Location: High
Court of
Karnataka





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NO. 152, FLAT NO 206,
II FLOOR NCN PARAMOUNT
II CROSS, NEAR NANJAMMA TEMPLE,
KARIANNANA PALYA, LINGARAJAPURAM,
BANGALORE.

4. MR. MOHAMED BHAKTIAR ALI KHAN
S/O LATE SHA MOHAMED RAJA ALI SHA,
AGED ABOUT 64 YEARS,
RESIDING AT NO 13/8,
HAKEEM GHOUSE KHAN LANE
KUMBARPET, BANGALORE - 560 002.
5. MRS. R.K. ASHRAFUNNISA
W/O LATE DR. MOHAMMED AMANULLA,
AGED ABOUT 57 YEARS,
NO. 96, 3RD MAIN, 6TH CROSS,
VIVEK NAGAR FURHTER EXTENSION,
BANGALORE - 47.
6. MRS. R.K. PARVEEZ SULTHANA
W/O MR. S.M. HUSSAIN RAZVI,
AGED ABOUT 52 YEARS,
NO. 686, III MAIN, II CROSS,
"A" BLOCK, SAHAKARNAGAR,
BANGALORE - 560 092.
7. MRS. R.K. AKTHAR UNNISA
W/O TANVEER AHMED,
AGED ABOUT 50 YEARS,
RESIDING AT NO. 1644 'A'
ARABIC COLLEGE, RASHAD NAGAR,
BANGALORE - 560 045.



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8. MRS. R.K. HASEENA TAJ
W/O LATE ATTAULLA SHARIEFF
AGED ABOUT 40 YEARS,
NO. 1230, 2ND CROSS,
OPP INAM MOSQUE ROAD,
BASAVALINGAPPA LAYOUT,
NEAR SHAMPUR RAILWAY GATE,
ARABIC COLLEGE POST, RASHAD NAGAR,
BANGALORE - 560 045.
9. MR. R.K. LIYAKHAT ALI KHAN
S/O LATE SHA MOHAMED RAZA LI SHA
AGED ABOUT 55 YEARS,
C/O PEER SAHIEB SCRAP MERCHANT
NO. 54/5, II FLOOR,
SHAMSUNNISA BUILDING III CROSS,
TANK BUND ROAD, BISMILLAH NAGAR,
BANGALORE - 560 029.
10. MR. MOHAMMED JABIR ALI KHAN
S/O LATE SHA MOHAMED RAZA ALI SHA,
AGED ABOUT 46 YEARS,
RESIDING AT NO. 77/A,
OFFICERS MADEL HOME COLONY,
T. DASARAHALLI, PEENYA,
BANGALORE - 560 047.

...RESPONDENTS

(BY SRI. R. ABDUL REYAZ KHAN, ADVOCATE
FOR C/R1 AND R9;
SRI. MOHAMMED ARIF KHAN MAKKI, ADVOCATE FOR R10;
VIDE ORDER DATED 12.06.2025, NOTICE TO R4 AND R10
HELD SUFFICIENT R4- MOHAMMED BHAKTIYAR ALI KHAN,
R10 - MOHAMMED ZABIR ALI KHAN)



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THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH ORDER PASSED BY THE XI ADDITIONAL CITY CIVIL JUDGE AT BENGALURU (CCH-8) IN O.S.NO.9237/2013 DATED 06.03.2020, ANNEXURE-G AND PERMIT THE PETITIONER TO PRODUCE THE DOCUMENT AND TO MARK THE DOCUMENT AS EXHIBITS AND ETC.,

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

Captioned writ petition is filed by the plaintiff calling in question the order passed by the learned Trial Judge on I.A.No.6, whereby the application filed by the plaintiff seeking permission to produce an additional document, which was not filed along with the plaint, has been rejected. The learned Trial Judge has declined the application principally on the ground that the document is sought to be produced belatedly and further that the document does not bear the signature of the authorised person or the signatures of the persons to whom the alleged payments were made.



2. Heard the learned counsel appearing for the petitioner-plaintiff and the learned counsel appearing for the respondents-defendants. Perused the impugned order and the material on record.

3. The plaintiff has instituted the suit seeking specific performance of the contract. In paragraph No.3 of the plaint, the plaintiff has specifically pleaded that the mother of the defendants had received the entire sale consideration of Rs.36,17,800/- as on 19.11.2003. In support of the said pleading, the plaintiff has furnished particulars of the payments allegedly made on various dates, aggregating to Rs.36,17,800/-. The document now sought to be produced contains, inter alia, an endorsement stated to have been made by defendant No.8, which according to the plaintiff would corroborate the payments referred to in paragraph No.3 of the plaint.

4. The application is opposed by the defendants principally on the ground that the plaintiff had neither asserted any right under the alleged agreement of sale nor disclosed the alleged payments in the earlier rounds of litigation and,



therefore, cannot be permitted to introduce the document at this belated stage, particularly when the matter was posted for further cross-examination/continuation of the plaintiff's evidence.

5. Having examined the pleadings, particularly the specific averments contained in paragraph No.3 of the plaint, this Court is of the considered view that the plaintiff cannot be shut out from placing the document on record merely on the ground that its evidentiary value is disputed by the defendants. The document now sought to be produced is sought to be relied upon in support of a specific plea already taken in the plaint with regard to payment of the alleged sale consideration. The objections raised by the defendants essentially relate to the genuineness, authenticity and evidentiary value of the document. These are matters which fall for consideration at the stage of appreciation of evidence and cannot, ordinarily, be conclusively determined at the threshold while considering an application for production of a document.

6. It is trite that mere marking or production of a document does not amount to proof of its contents. The



plaintiff would necessarily be required to establish, in accordance with law, the execution, authenticity and evidentiary value of the document and, more importantly, prove that the amounts reflected therein were in fact paid to the mother of the defendants towards the alleged advance sale consideration under the agreement dated 04.04.1991.

7. Equally, the defendants cannot be prejudiced by permitting the document to be brought on record. The defendants would have full opportunity to question the plaintiff with regard to the circumstances in which the document came into existence, the alleged endorsement of defendant No.8, the absence of signatures thereon, the nature and purpose of the payments and the plaintiff's failure, if any, to rely upon the document in the earlier proceedings. The defendants would also be at liberty to adduce rebuttal evidence to establish their specific defence that the payments relied upon by the plaintiff were made towards rent and not towards the sale consideration.

8. Therefore, this Court is of the view that the learned Trial Judge, while considering the application for production of



the document, ought not to have undertaken an adjudication into its authenticity or evidentiary worth. The question as to whether the document is genuine, whether the endorsement is proved, whether the alleged payments were in fact made towards the sale consideration and whether the document inspires confidence are all matters which have to be adjudicated upon after the parties are afforded an opportunity to lead evidence and test the evidence of the opposite party in accordance with law.

9. The rejection of the document at the threshold, in the facts and circumstances of the present case, would deprive the plaintiff of an opportunity to rely upon material which is stated to be in support of an assertion already forming part of the plaint. Mere production of the document does not confer any advantage upon the plaintiff unless its contents and execution are duly established in accordance with law. Consequently, the apprehension of prejudice to the defendants can adequately be addressed by reserving their right to dispute and contest the document at the appropriate stage.



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10. For the foregoing reasons, this Court is of the view that the impugned order warrants interference in exercise of the jurisdiction of this Court. The document is liable to be received on record, subject, however, to the plaintiff establishing its execution, authenticity and contents strictly in accordance with law. All objections of the defendants touching upon the admissibility, genuineness, execution, evidentiary value and the circumstances surrounding the alleged payments are left open to be urged before the learned Trial Court at the appropriate stage.

11. Accordingly, this Court proceeds to pass the following:

ORDER

- i. The writ petition is ***allowed***.
- ii. The order dated 06.03.2020 passed in O.S.No.9237/2013 by the XI Additional City Civil Judge, Bengaluru (CCH-8), is hereby quashed and set aside.
- iii. I.A.No.6 filed by the plaintiff shall stand allowed to the limited extent of permitting the plaintiff to produce



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the document on record, subject to proof and in accordance with law.

iv. The production of the document shall not, by itself, amount to proof of its execution, contents or authenticity.

v. The defendants shall be at liberty to raise all permissible objections in respect of the said document and to contest the same in the course of cross-examination and by leading rebuttal evidence.

vi. All contentions of the parties on the merits of the document and the alleged payments are left open.

vii. The learned Trial Court shall proceed with the suit uninfluenced by any observations made herein.

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