



CNR: KAHC010261932022

NC: 2026:KHC:40103
W.P. No.11914/2022

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.11914/2022 (GM-CPC)

BETWEEN:

SRI. JAYARAM
(SINCE DEAD BY LRS).

1. SMT. NALINI
D/O LATE JAYARAM
AGED ABOUT 40 YEARS.
2. SRI. KIRAN @ KIRAN KUMAR
S/O LATE JAYARAM
AGED ABOUT 37 YEARS.
3. SMT. DAKSHAYANI
W/O LATE JAYARAM
AGED ABOUT 53 YEARS.
4. SMT. KUMARI .J
W/O R. KUMAR
AGED ABOUT 34 YEARS.

ALL ARE R/AT. NO.46/6
6TH MAIN, 3RD CROSS
THULASAMMA LAYOUT
MANORAYANAPALYA
R.T. NAGAR
BENGALURU-560032.

Digitally signed
by RUPA V

Location: HIGH
COURT OF
KARNATAKA

...PETITIONERS

(BY SRI. SURYA G.S. ADV., FOR
SRI. BHADRINATH R, ADV.,)

AND:

1. SMT. THULASAMMA



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W/O LATE MUNINAGAPPA
AGED ABOUT 77 YEARS.

2. SMT. SHYLAJA
W/O ASHWATHAPPA
AGED ABOUT 52 YEARS.
3. SRI. VISHWANATH
S/O LATE MUNINAGAPPA
AGED ABOUT 42 YEARS.
4. SMT. MADHUMATHI
W/O VENKATARAJ
AGED ABOUT 40 YEARS.

ALL ARE R/AT NO.204
THULASAMMA LAYOUT
MANORAYANAPALYA
6th CROSS, R.T NAGAR
BENGALURU 560 032.

...RESPONDENTS

(BY SRI. PARAMESWARAPPA C, ADV., FOR R1 & R3
R2 & R4 SERVED)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR THE RECORDS IN O.S.NO.469/2012 ON THE FILE OF XXV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AT BENGALURU CITY (CCH-23) AS FOUND AT ANNEXURE-A. QUASH THE IMPUGNED ORDER DTD 11.04.2022 ON I.A.NO.17 IN O.S.NO.469 OF 2012 PASSED BY THE XXV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AT BENGALURU CITY (CCH-23) AS FOUND AT ANNEXURE-A AND CONSEQUENTLY TO DISMISS I.A.NO.17 FILED BY THE RESPONDENTS/PLAINTIFFS UNDER ORDER 26 RULE 10A OF CODE OF CIVIL PROCEDURE PROVIDES ALSO U/S 45 AND 73 OF THE EVIDENCE ACT 1872 AS FOUND AT ANNEXURE-A & ETC.



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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 the order dated 11.04.2022 passed on IA.No.17 in OS.No.469/2012 by the XXV Additional City Civil and Sessions Judge, Bengaluru City, (CCH-23), (for short 'the trial Court').

2. Heard Sri.Surya G.S., leaned counsel appearing for Sri.Bhadrinath R., learned counsel for the petitioners, Sri.Parameswarappa C., learned counsel appearing for respondent Nos.1 and 3 and meticulously perused the material available on record.

3. The respondents filed a suit in OS.No.469/2012 against the petitioners herein seeking a declaration that the plaintiffs are the absolute owners of the suit schedule property, a declaration that the sale deed dated 23.06.2006 executed by defendant No.1 (allegedly on behalf of plaintiff No.1) in favour of defendant Nos.2 and 3



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is null and void and the consequential relief of possession. In the said suit, the petitioners/defendants filed a detailed written statement denying the averments made in the plaint. The parties adduced the evidence. Thereafter, the plaintiffs filed an application under Order XXVI Rule 10-A read with Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC') also under Section 45 and 73 of the Indian Evidence Act, 1872 seeking appointment of a scientific expert as a Court Commissioner to compare the disputed signatures of plaintiff No.1 on Ex.D5, which is the General Power of Attorney (GPA) with the admitted signatures in the suit. The said application was opposed by the petitioners/defendants. The trial Court, under the impugned order allowed the application.

4. It is to be noticed that plaintiffs specifically contended in the plaint as well as in the evidence that the signatures on alleged GPA dated 04.05.2001, alleged to have been executed by plaintiff No.1 in favour of defendant No.1, is a forged signature and not of plaintiff



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No.1. The said assertion has been denied by the defendants in the suit and same stand is taken in the evidence as well. It is further to be noticed that pursuant to the said GPA dated 04.05.2001, the registered sale deed dated 23.06.2006 is alleged to have been executed by defendant No.1 in favour of defendant Nos.2 and 3. To substantiate the contention of the plaintiffs that the sale deed dated 23.06.2006 is null and void, they are required to prove that the GPA dated 04.05.2001 was never executed by plaintiff No.1 in favour of defendant No.1.

5. The trial Court considering the aforesaid aspect that even in the criminal proceedings, the investigation officer had filed a 'B' report; however, the said report does not indicate that the investigation officer had secured the expert's opinion with regard to the signatures on the GPA dated 04.05.2001. Hence, decided to refer the document to a handwriting expert. The trial Court has further recorded the reason that the defendants failed to examine the attesting witnesses or the notary public, who affixed



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their signatures on Ex.D5. Therefore, it would be difficult to ascertain the assertion of plaintiff No.1 as to whether the signatures found on the GPA is forged or not and proceeded to allow the application.

6. It is also required to be noticed that any number of oral evidence and document evidence on record would not be sufficient to ascertain as to whether the signatures found on the GPA dated 04.05.2001 is of plaintiff No.1 or not. Hence, the trial Court taking all the aspects into consideration and considering the nature of relief sought, proceeded to allow the application. I do not find any error in the said order calling for interference. Accordingly, the writ petition is devoid of merits and the same is ***rejected***.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 32