



CNR: KAHC010428822026

NC: 2026:KHC:45657
WP No. 19454 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT PETITION NO.19454 OF 2026 (GM-CPC)

BETWEEN:

SRI G. MANU
S/O LATE GURUMALAPPA,
AGED ABOUT 53 YEARS,
AGRICULTURIST,
R/AT DODDAKAMARAVALLI VILLAGE,
HARNAHALLI HOBLI,
PERIYAPATNA TALUK,
MYSORE DISTRICT-571107.

...PETITIONER

(BY SRI. PANCHAM R.D., ADVOCATE)

AND:

1. SRI M.B. SHIVASWAMY
S/O M.S. BASAVARAJU,
AGED ABOUT 47 YEARS,
AGRICULTURIST,
2. SMT. TEJASWINI
W/O M.B. SHIVASWAMY,
AGED ABOUT 35 YEARS,
HOUSE-WIFE

RESPONDENT NOS.1 AND 2 ARE
R/AT KOPPA VILLAGE,
HARANAHALLI HOBLI,
PERIYAPATNA TALUK,
MYSORE DISTRICT-571107.

...RESPONDENTS

(BY SRI. RAVI M.M., ADVOCATE FOR R-1 & R-2)



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THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER ORDER, DIRECTION, QUASHING THE COMMON ORDER DATED 15.12.2025, PASSED ON I.A.NOS.12 & 13 AND RECALLING THE COMMISSIONER WARRANT PASSED BY THE COURT OF THE SENIOR CIVIL JUDGE AND J.M.F.C. AT PERIYAPATNA, IN O.S.NO.28/2020, VIDE ANNEXURE-A.

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

CORAM: HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL ORDER

The petitioner, who is the plaintiff in O.S No. 28/2020, has called in question the order dated 15.12.2025 passed on I.A Nos. 12 and 13 on the file of the Senior Civil Judge and JMFC, Periyapatna [**Trial Court**] , whereby I.A Nos. 12 and 13 filed by the petitioner seeking recall from the stage of arguments and permission to lead further evidence/examine a witness came to be dismissed, along with the consequential order recalling the commissioner's warrant issued pursuant to the earlier order on I.A No. 11.

BRIEF FACTS

2. The petitioner's case is that the respondents borrowed a sum of ₹ 10,00,000 on 08.06.2017 and executed an on-demand promissory note-cum-consideration receipt. The



respondents disputed the transaction and specifically denied execution of the said document, alleging that their signatures had been misused and forged.

3. After the completion of evidence, the plaintiff filed I.A No. 11 under Section 45 of the Indian Evidence Act, seeking reference of Ex. P1-promissory note-cum-cash receipt, along with vakalathnama of defendant Nos. 1 and 2 to a handwriting expert for comparison of their signatures. The application was allowed. Thereafter, Truth Labs sought further admitted signatures - documents of the defendants, pursuant to which the Trial Court directed the parties to furnish such documents. The plaintiff thereafter filed I.A.Nos. 12 and 13, seeking of recall from the stage of arguments to enable him to lead further evidence and permission to furnish a list of witnesses. The Trial Court rejected the said application and also recalled the commissioner's warrant. Aggrieved by the said order, the petitioner has approached this Court.

4. Learned counsel for the petitioner contends that the Trial Court erred in rejecting I.A Nos. 12 and 13 by attributing



negligence to the petitioner in not furnishing the additional admitted signature documents sought by Truth Labs. It is contended that the proposed witnesses, namely the advocate and notary who attested the document were relevant and necessary to establish the execution of the promissory note-cum-consideration receipt and that refusal to permit such evidence would deprive the petitioner of an opportunity to substantiate his case. The petitioner also contends that the commissioner's warrant ought not to have been recalled when steps have already been taken to facilitate the order on I.A.No. 11 and handwriting examination had not reached its logical conclusion.

5. Learned counsel for the respondents support the impugned order and contends that the petitioner had been afforded sufficient opportunity to prosecute the matter and to comply with the order passed on I.A No. 11. Despite such opportunity the petitioner failed to furnish the documents required for handwriting examination, resulting in considerable delay. It is therefore contended that after completion of the evidence and when the suit was posted for arguments, there



was no justification for reopening the case or permitting the petitioner to lead further evidence.

Reasoning and analysis

6. The plaintiff had earlier filed I.A.No. 11 under Section 45 of the Indian Evidence Act, seeking reference of Ex. P1 - promissory note-cum-cash receipt along with vakalathnama of defendant Nos. 1 and 2 to the handwriting expert for comparison of their signatures. The said application was allowed. Pursuant thereto, Truth Labs sought further admitted signatures/documents of the defendants and the Trial Court directed the parties to furnish such documents. Thus, the exercise initiated pursuant to I.A No. 11 was in progress.

7. It is true that the order sheet records that the plaintiff had not furnished the required documents within the time and that there was no progress for a considerable period. However, the subsequent proceedings also disclose that the steps were taken by the plaintiff including furnishing of requisite demand draft and taking steps for forwarding the documents to the handwriting experts. Therefore, it cannot be said that the plaintiff



had completely abandoned the proceedings pursuant to I.A. No. 11. In such circumstances, the Trial Court, while rejecting I.A. Nos. 12 and 13, could not have simultaneously brought the proceedings pursuant to I.A No. 11 to an end by recalling the commissioner's warrant.

8. The question whether further evidence is necessary and whether proposed witnesses are required to be examined ought to have been considered in the backdrop of the pending handwriting examination and evidence on record. At the same time, this Court cannot lose sight of the fact that the suit is of the year 2020 and already reached the arguments stage. The plaintiff cannot be permitted to keep the proceedings open indefinitely by seeking repeated opportunities. Therefore, this Court deems it appropriate that a final opportunity to be granted to complete the steps already initiated pursuant to I.A No. 11.

9. Accordingly, the order rejecting I.A Nos. 12 and 13 as well as the consequential order recalling the commissioner's warrant requires interference. The matter is required to be remitted to the Trial Court for fresh consideration. The Trial



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Court shall permit the petitioner one final opportunity to take all necessary steps pursuant to I.A No. 11 and complete the handwriting examination. No further adjournments shall be granted for that purpose. If the petitioner fails to take necessary steps within the time granted by the Trial Court, the Trial Court shall proceed with the matter from the stage of arguments on the basis of the evidence already available on record. The subsequent I.A Nos. 14 and 15 are premature. The petition deserves to be allowed in part with the impugned order on I.A Nos. 12 and 13 and the consequential order recalling the commissioner's warrant being set aside and the matter being remanded to the Trial Court for fresh consideration in accordance with law. Ordered accordingly.

Sd/-

JUSTICE K.S. HEMALEKHA

CKL
List No.: 1 Sl No.: 28