



CNR: KAHC010568282019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 411 OF 2020 (GM-CPC)

BETWEEN:

1. MR PRAKASH @ SHIVAPRAKASH
S/O LATE SANGAPPADEAVRU
AGED ABOUT 58 YEARS,
KAIPET, GUBBI TALUK
TUMKUR DISTRICT - 572 216

...PETITIONER

(BY SRI. AJIT .P.B, ADVOCATE)

AND:

1. MRS SAROJA. M
D/O MUDDAPPADEVARU
AGED ABOUT 56 YEARS,
R/O NO. 86/20, NEAR SUNRISE SCHOOL
SUBHASH NAGAR
NELAMANGALA - 562 123.
2. MRS M SUDHA
D/O MUDDAPPADEVARU,
AGED ABOUT 53 YEARS,
NO. 841, GANGA NILAYA
OPPOSITE GANAOATHI TEMPLE
5TH CROSS, COCONUT GARDEN
BANGALORE - 560 057.
3. MR GIRISH M
S/O MUDDAPPADEVARU
AGED ABOUT 51 YEARS,
R/O NO. 86/20, NEAR SUNRISE SCHOOL

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SUBHASH NAGAR
NELAMANGALA - 562 123

4. MRS PUSHPA G R
D/O G B RAMANATHAN
SINCE DEAD BY LR_s
 - 4(A) MR. DHANANJAYA
FATHER NAME NOT KNOWN
AGED ABOUT 50 YEARS
 - 4(B) MRS. MALA
D/O MR. DHANANJAYA
AGED ABOUT 30 YEARS
 - 4(C) MR. MADHU
S/O MR. DHANANJAYA
AGED ABOUT 28 YEARS
- ALL ARE R/AT MADHU NIVASA
PANCHAMUKHI BADAVANE
ANTHARASANAHALI
NH4, TUMKUR-572 106.
5. MR. RENUKA PRASAD
S/O LATE SANGAPPADEVARU
AGED ABOUT 61 YEARS,
R/O KAIPET, GUBBI VILLAGE - 572 216.
 6. MR. LOKESH
S/O LATE SANGAPPADEVARU
AGED ABOUT 59 YEARS,
R/O KAIPET, GUBBI VILLAGE - 572 216.
 7. MR. G S NATESH BABU
S/O LATE SANGAPPADEVARU
AGED ABOUT 54 YEARS,
R/O KAIPET, GUBBI VILLAGE - 572 216.



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8. MR JAGADEESH
S/O LATE SANGAPPADEVARU
AGED ABOUT 52 YEARS,
R/O KAIPET, GUBBI VILLAGE - 572 216.
9. MR NALINA KUMARI
D/O LATE SANGAPPADEVARU
AGED ABOUT 50 YEARS,
R/O KAIPET, GUBBI VILLAGE - 572 216.
10. MR BASAPPDEVARU
S/O LATE SANGAPPADEVARU
AGED ABOUT 48 YEARS,
R/O KAIPET, GUBBI VILLAGE - 572 216.
11. MR MUDDAPPADEVARU
S/O LATE BASAPPDEVARU
AGED ABOUT 90 YEARS,
R/O NO. 86/20, NEAR SUNRISE SCHOOL
SUBHASH NAGAR
NELAMANGALA - 562 123

SINCE DEAD
R1 TO R3 AND R12 ARE TREATED AS LRs
OF DECEASED R11
12. MR MAHESH M
S/O MUDDAPPADEVARU
AGED ABOUT 47 YEARS,
VIRAJPET RURAL POLICE STATION
KODAGU DISTRICT - 571 218.
13. MR GUBBI REVANNAARADHYA
S/O LATE BASAPPDEVARU
AGED ABOUT 75 YEARS,
RETIRED K.E.B.
R/O 99 SHANTINIVASA
2ND STAGE, R.P.C.LAYOUT,
VIJAYANAGARA, BANGALORE - 560 040.



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14. MR CHANDRASHEKAR G R
S/O GUBBI REVANARADHYA
AGED ABOUT 54 YEARS,
R/O 99 SHANTINIVASA
2ND STAGE, R.P.C.LAYOUT,
VIJAYANAGARA, BANGALORE - 560 040.
15. MR NATRAJ G R
S/O GUBBI REVANARADHYA
AGED ABOUT 51 YEARS,
R/O NO. 99 SHANTINIVASA
2ND STAGE, R.P.C.LAYOUT,
VIJAYANAGARA, BANGALORE - 560 040.
16. MRS JAYASHREE
W/O G S NATESH BABU
AGED ABOUT 50 YEARS,
R/O KAIPET, GUBBI VILLAGE,
TUMAKURU DISTRICT - 572 216

...RESPONDENTS

(BY SRI. DHANANJAYA .N.R, ADVOCATE FOR C-R1 & R4;
SRI. ASHOK B. PATIL AND SRI. DHANANJAYA N.R.,
ADVOCATES FOR R1 TO R4, R11, R13 AND R15;
R7, R8, R10, R14 AND R16 ARE SERVED;
V/O DATED 10.03.2022, R1 TO R3 AND R12 ARE TREATED
AS LR's OF R11;
V/O DATED 10.03.2022, NOTICE TO R5, R6 AND R9 IS
DISPENSED WITH;
SRI. BHASKARA TEJASWINI, ADVOCATE FOR R4(A TO C)
AND R15;
V/O DATED 10.03.2022, NOTICE TO R5, R6 AND R9 IS
DISPENSED WITH;
R12 SERVED AND UNREPRESENTED

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER
DATED 16.12.2019 IN O.S.NO.26/2015 (I.A.NO.34) FILED BY
THE PETITIONER (I.E DEFENDANT NO.3) UNDER ORDER 26
RULE 10(a) OF CODE OF CIVIL PROCEDURE, 1908 ON THE FILE

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OF THE ADDITIONAL SENIOR CIVIL JUDGE AND JMFC AT GUBBI VIDE ANNEXURE-A; AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING 'B' GROUP, 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 defendant No.3 calling in question the order dated 16.12.2019 passed by the learned Additional Senior Civil Judge and JMFC, Gubbi, in O.S.No.26/2015 on I.A.No.34, whereby the learned Trial Judge has declined the prayer of the petitioner to secure the opinion of a handwriting expert with regard to the disputed document marked as Ex.D.15.

2. The respondent Nos.1 to 7 have instituted the suit seeking the relief of partition and separate possession. The present petitioner, who is arrayed as defendant No.3 and claims to represent the branch of the eldest son, namely, Sangappadevaru, has filed his written statement and is contesting the suit by setting up a plea of prior partition. The specific case of the petitioner is that, during the



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lifetime of his father and uncles, an oral partition had taken place and that the said partition was subsequently reduced into writing by way of a document styled as a "Memorandum of Partition", which has been marked in evidence as Ex.D.15.

3. The petitioner seeks to establish the genuineness of Ex.D.15, particularly in view of the fact that defendant No.8–Muddappadevaru, who is stated to be the second son and, according to the petitioner, was a party to the earlier oral partition, has disputed his signature appearing on Ex.D.15 in the course of his cross-examination. The petitioner, therefore, filed I.A.No.34 seeking examination of the disputed signature by a handwriting expert by comparing the same with the admitted signatures of defendant No.8.

4. It is not in dispute that the burden of establishing the plea of prior partition rests upon the petitioner. When the very document relied upon by the petitioner to



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substantiate such plea is disputed and the signature appearing thereon is specifically denied by defendant No.8, the genuineness of the said signature assumes considerable significance. The determination of the authenticity of the signature would have a direct bearing on the evidentiary value of Ex.D.15 and, consequently, on the petitioner's plea of prior partition.

5. The consistent approach of the Courts is that a party ought not to be deprived of an opportunity to place before the Court the best evidence available to substantiate its case, particularly when such evidence can assist the Court in arriving at a just and effective adjudication of the dispute. In the present case, the petitioner is not seeking to introduce a new plea or to alter the nature of his defence. The request is confined to obtaining an expert opinion on the disputed signature appearing on a document already relied upon by him in support of his existing defence.



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6. Once defendant No.8 has disputed the signature attributed to him on Ex.D.15, the petitioner cannot be denied an opportunity to have the disputed signature scientifically examined by comparing it with the admitted signatures of defendant No.8. Such examination may assist the Trial Court in appreciating the genuineness of the document and the evidentiary foundation of the petitioner's plea of prior partition. The expert opinion, though not conclusive by itself, would constitute relevant scientific evidence which the petitioner is entitled to place before the Court, leaving its probative value to be assessed by the Trial Court at the appropriate stage.

7. The mere fact that the petitioner bears the burden of proving the plea of prior partition cannot, by itself, constitute a ground to deny him an opportunity to lead relevant evidence in discharge of that burden. On the contrary, where the authenticity of a material signature is specifically put in issue, permitting its examination by a



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handwriting expert would facilitate a proper adjudication of the controversy. The respondents would also have full opportunity to contest the expert's opinion and to lead such evidence as may be available to them.

8. This Court is also of the view that no prejudice would be caused to the plaintiffs or the contesting defendants by allowing the application. The exercise sought by the petitioner is only to obtain an expert opinion on the disputed signature. The ultimate question regarding the genuineness and evidentiary value of Ex.D.15 would necessarily remain within the domain of the Trial Court, which shall consider the expert's opinion along with the other oral and documentary evidence on record.

9. In that view of the matter, this Court is of the considered opinion that the learned Trial Judge has failed to exercise the discretion vested in it in a judicious manner. The reasons assigned in the impugned order for declining the petitioner's request do not constitute



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sufficient justification for shutting out relevant scientific evidence which may have a material bearing on the adjudication of the petitioner's defence. The impugned order, therefore, cannot be sustained.

10. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

- (i) The writ petition is *allowed*.
- (ii) The order dated 16.12.2019 passed by the learned Additional Senior Civil Judge and JMFC, Gubbi, in O.S.No.26/2015 on I.A.No.34, vide Annexure-A, is hereby set aside.
- (iii) Consequently, I.A.No.34 filed by defendant No.3 seeking scientific examination of the disputed signature is allowed.
- (iv) The learned Trial Judge shall secure the admitted signatures/specimens of defendant No.8 and the disputed signature



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appearing on Ex.D.15 and forward the same to an appropriate handwriting/forensic expert for scientific examination and opinion, in accordance with law.

- (v) It is made clear that the expert opinion shall be considered by the learned Trial Judge along with the entire evidence on record and shall not, by itself, be treated as conclusive proof of the genuineness or otherwise of Ex.D.15.
- (vi) The learned Trial Judge shall thereafter proceed with the suit in accordance with law and endeavour to dispose of the same expeditiously.
- (vii) Pending interlocutory applications, if any, stand disposed of accordingly.

Digitally Signed By:
SACHIN SHANKAR MAGADUM
Verified

**(SACHIN SHANKAR MAGADUM)
JUDGE**