



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 30583 OF 2025 (GM-CPC)

BETWEEN:

1. SRI D S KUMAR
SINCE DEAD BY HIS LRS
SRI. S.K.SOMESHWARA,
S/O LATE D.S. KUMAR,
AGED ABOUT 59 YEARS,
2. MS. USHA.S.K.
D/O LATE D.S. KUMAR,
AGED ABOUT 39 YEARS,

BOTH ARE R/AT NO.E-930,
3RD SOUTH ROAD,
ITI 'B' AREA, DOORAVANINAGAR POST,
BENGLAURU-560 016.

...PETITIONERS

(BY SRI. V.VISWANATH SETTY, ADVOCATE)

AND:

1. SMT.YESHODAMMA
W/O LATE T.R.SHANKRAPPA
AGED ABOUT 61 YEARS
2. SRI.MANJUNATH
S/O LATE T.R. SHANKARAPPA,
AGED ABOUT 33 YEARS,

BOTH ARE R/AT FIRST FLOOR,
L.J. IYENGAR BAKERY,
OPP. NANTHA RAMAIAH BUILDING,



GARUDACHARAPALYA MAIN ROAD,
MAHADEVAPURA POST,
BENGALURU-560 048

2. SMT. RATHNAMMA,
W/O LATE ANJINAPPA, MAJOR,
R/AT RAMAGONDANAHALLI VILLAGE AND POST,
VARTHUR HOBLI, BENGALURU EAST TALUK,
BENGALURU-560 048

4. SRI.M.MUNIVENKATAPPA
SINCE DECEASED BY HIS LR'S

SRI.T.M.VENKATESH @
TATHANUR VENKATESH
S/O LATE MUNIVENKATAPPA
MAJOR

5. SMT.PUTTAMMA
D/O LATE MUNIVENKATAPPA
MAJOR

RESPONDENT NO.4 TO 6 ARE
R/AT MALLAMMA NILAYA
1ST CROSS, MUNIYAPPA LAYOUT
NEAR MM CHOULTARY
NEAR POLICE STATION ROAD
K R PURAM
BENGALURU-560 036

3. SMT. A.VIMALA,
W/O LATE R.NANJUNDESH,
AGED ABOUT 54 YEARS,
R/AT NO.72, MUNNKOLALA VILLAGE,
MARATHAHALLI POST,
BENGALURU-560 037

4. SRI. D.S. RAJENDRA,
S/O LATE T. DASAPPA,
AGED ABOUT 66 YEARS,
R/AT NO. 131/6, MES QUARTERS,



COMMAND HOSPITAL AIRFORCE,
OLD AIRPORT ROAD,
BENGALURU

5. SRI. RAMAKRISHNAPPA,
S/O LATE HANUMANTHAPPA,
C/O CHANDRAPPA,
AGED ABOUT 84 YEARS,
R/AT TATHANUR VILLAGE,
MEDI MALLASANDRA POST,
HOSKOTE TALUK,
BENGALURU-560 067
6. SMT. D.S. PREMAVATHI,
W/O THIMMARAYAPPA,
AGED ABOUT 59 YEARS,
R/AT AMRUTHAHALLI VILLAGE,
YELAHANAKA HOBLI,
BENGALURU NORTH TALUK,
BENGALURU-560 064

...RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE WRIT OF CERTIORARI QUASHING THE ORDER PASSED BY THE SENIOR CIVIL JUDGE AND JMFC AT HOSAKOTE DATED: 05.07.2025 ANNEXURE-E IN O.S.NO.3203/2022 (OLD NO. 431/2011) ON I.A.NO.3/2023 FILED UNDER ORDER 26 RULE 10/A R/W.SEC.45 OF INDIAN EVIDENCE ACT TO APPOINTMENT THE COURT COMMISSIONER FOR SCIENTIFIC INVESTIGATION AND TO GIVE REPORT BY EXAMINING THE ADMITTED SIGNATURES.

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



CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

Aggrieved by the orders passed on I.A.No.3 in O.S.No.3203/2022(old No.431/2011) dated 05.07.2025, by the Senior Civil Judge and JMFC, Hosakote, the petitioner is before this Court.

2. The petitioner/plaintiff has filed the application. The suit is for partition, separate possession in respect of the suit schedule properties, and a declaration that the sale deeds dated 26.11.1994, 23.09.2006, and 19.07.1994 are not binding on their share. In the said suit, after the evidence was concluded and the matter was posted for arguments, the present I.A is filed seeking to appoint the Court Commissioner. It is the case of the plaintiff that at the time of the examination DW-1, produced several documents on her behalf. Among them were Ex.D-1, a certified copy of the sale deed dated 27.05.1952, and a copy of the original sale deed dated 27.05.1952. After verifying the said documents, they suspect the alleged signature of their grandfather, T.Dasappa. Hence, it is just and necessary to appoint a Court Commissioner for the



complete adjudication of the matter and to decide it on merits. The trial court, by the impugned order, dismissed the application.

3. While dismissing the application, the trial court observed that, on perusal of the available records, the arguments canvassed by both parties, and the written arguments filed by the plaintiffs, the suit is filed by the plaintiff, seeking relief of partition and separate possession in respect of the suit-scheduled properties, to declare that the sale deeds dated 26.11.1994, 23.09.2006, and 19.07.1994 are not binding on them, and for a permanent injunction. On rival pleadings, the trial court framed proper issues, and both parties led their evidence by producing oral and documentary evidence. When the case was posted for arguments, an application was filed seeking permission to refer Ex.D-1, along with admitted signatures of one Dasappa found in the documents produced in the list, on 26.06.2023. The trial court observed that on perusal of the said documents, it was found that they were not obtained from the authorised authority, were not marked by the parties, and were not admitted by the court. Furthermore, the defendants have also disputed the signature Ex.D.1. The



sale deed was produced in certified copy and they have produced the xerox copy of the sale deed dated 25.07.1952 which is not marked as exhibit. Neither party has produced the documents bearing the admitted signatures of Dasappa to prove the disputed signatures alleged to be found in the copy of the sale deed in Ex.D-1 or in its xerox copy. The trial court observed that, except for Ex.D-1, the certified copy of the sale deed, neither party has produced any material documents for the forensic investigation of the signatures of said Dasappa. Accordingly, the trial court has come to the concluded that the plaintiff has not made out a case and dismissed the application.

4. Learned counsel appearing for the petitioner/plaintiff submits that the Sub-Registrar will maintain a register containing the original documents, from which the signatures can be compared. It is submitted that the trial court failed to consider these aspects and dismissed the application in a mechanical manner. As there is a dispute regarding the signature on the sale deed, unless and until the said document is sent for expert opinion, prejudice would be caused to the plaintiff.



5. Having heard the learned counsel for the petitioner and perused the material on record, the relief sought is to declare that the sale deeds dated 26.11.1994, 23.09.2006 and 19.07.1994 are not binding on them, and to seek partition and separate possession of the suit-scheduled property. Now, by virtue of this application, they seek to compare the signatures in Ex.D-1 with the Xerox copies produced by the defendant, as per the list dated 26.06.2023, i.e., the sale deed dated 27.05.1952, for expert opinion. The Trial Court has rightly observed that there are no admitted signatures of one Dasappa available, and even the document relied upon for the year 1952 is not admitted and marked by the court. Without there being a document of admitted signatures, and when the matter is posted for arguments, that application cannot be allowed. The submission of the learned counsel for the petitioner that there may be a document available with the Sub-registrar and that he should be given an opportunity, and that the said document has to be compared with the signatures in the said document with the Registrar, is not appreciated by this Court. The suit was filed in the year 2022, and the entire evidence was completed when the matter was posted for arguments. The



present application is filed relying on a document which is not even marked as an exhibit before the court. In that view of the matter, this Court does not find any reason to interfere with the order passed by the Trial Court.

6. Accordingly, this Court is passing the following:

ORDER

- i. Accordingly, the writ petition is ***dismissed***.
- ii. Pending I.As. in this petition shall stand closed.

**SD/-
(LALITHA KANNEGANTI)
JUDGE**

TS
List No.: 1 Sl No.: 8