



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-07-2026

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THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

CRP No. 1996 of 2024 AND CMP NO. 10589 OF 2024

S. Peter

Petitioner(s)

Vs

K. Duraisamy

Respondent(s)

PRAYER

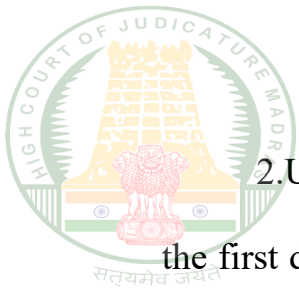
To set aside the fair and decretal order dated 12.03.2024 of the learned II Additional Sub Judge, Erode in IA No.9 of 2023 in OS No.432 of 2017 and consequently allow the said IA No.9 of 2023 in OS No.432 of 2017 on the file of the learned II Additional Sub Judge, Erode.

For Petitioner(s): Mr.A.S. Vijayaragavan

For Respondent(s): Mr. R.Prabakar

ORDER

This Civil Revision Petition has been filed, challenging the impugned order dated 12.03.2024 passed by the II Additional Sub Court, Erode, in I.A. No.9 of 2023 in O.S. No.432 of 2017.



2. Under the aforesaid order, an application filed by the petitioner, who is the first defendant in the suit, under Section 45 of the Indian Evidence Act read with Order XXVI Rule 10 of CPC, seeking to compare the signatures found in the suit promissory note with the admitted signatures of the petitioner's father, has been dismissed on the ground that the said application was filed belatedly.

3. Learned counsel for the petitioner submits that the signature found in the suit promissory note is not that of the father of the petitioner and hence, the petitioner is not liable for the suit claim. According to him, if the signatures are compared, the exact truth will be known, which will reveal that the petitioner's father never signed the suit promissory note.

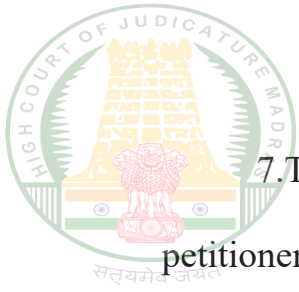
4. The suit filed by the respondent/plaintiff is of the year 2017. The very same defence was raised by the petitioner/first defendant in the written statement filed in the suit. While dismissing the application filed by the petitioner, the Trial Court has taken note of the fact that after a lapse of 7 years, the application has been filed under Section 45 of the Indian Evidence Act read with Order XXVI Rule 10 of CPC to compare the signatures of the petitioner's father with that of the signature found in the suit promissory note during the course of trial. Since the application was filed belatedly, the Trial Court has



dismissed the application filed by the petitioner/first defendant. When the petitioner/first defendant has taken a stand that the signature found in the suit promissory note is not the signature of the petitioner/first defendant's father, he ought to have filed an application at the earliest point of time under Section 45 of the Indian Evidence Act read with Order XXVI Rule 10 of CPC.

5.Learned counsel for the respondent/plaintiff has pointed out to this Court which, according to him, is an inconsistent stand taken by the petitioner/first defendant. According to him, in the written statement, the petitioner/first defendant has admitted that the documents were obtained from the petitioner/first defendant's father by the respondent/plaintiff, which according to him, is inconsistent with the stand taken by the petitioner/first defendant that the petitioner/first defendant's father never signed the suit promissory note.

6.Learned counsel for the petitioner, on instructions, submits before this Court that the petitioner/first defendant is willing to submit to a decree as prayed for in the suit in case this Civil Revision Petition is allowed and a direction is issued to the expert to compare the signatures of the petitioner's father as found in the suit promissory note and if it is found that the petitioner's father had in fact signed the suit promissory note.

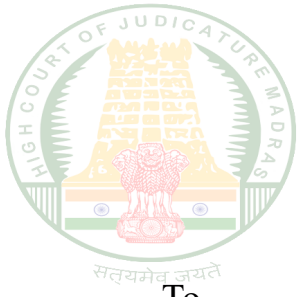


7. This Court is of the considered view that at this stage, when the petitioner/first defendant did not file an application under Section 45 of the Indian Evidence Act at the earliest point of time and that too when the suit is of the year 2017 and at the stage of revision, the question of considering the learned counsel for the petitioner's contention's, on instructions, does not arise.

8. For the foregoing reasons, since the Trial Court has rightly rejected the application filed by the petitioner under Section 45 of the Indian Evidence Act, this Court is not interfering with the impugned order. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected CMP is closed. No costs.

06-07-2026

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CRP No. 1996 of 2024



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- 1.The II Additional Sub Judge, Erode.
- 2.The Section Officer, VR Section, High Court, Madras.



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ABDUL QUDDHOSE J.

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