



CRP No. 2910 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-07-2026

CORAM

THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

**CRP No. 2910 of 2025
AND
CMP NO. 16420 OF 2025**

1. D.Sivaraman
2. A.Gizele

... Petitioners

Vs

A.Ganesan

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of Constitution of India, seeking to set aside against the impugned fair and decreetal order dated 18.06.2025 made in I.A.No.9 of 2025 in O.S.No.7751 of 2021 passed by the learned XVII Additional City Civil Judge, Chennai by allowing the Civil Revision Petition.

For Petitioners : Mr.G.Balamanikandan

For Respondent : Mr.R.Rajarajan

ORDER

This Civil Revision Petition has been filed challenging the impugned order dated 18.06.2025 passed by the XVII Additional City Civil Court, Chennai in I.A.No.9 of 2025 in O.S.No.7751 of 2021.



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2. In the aforesaid order, the application filed by the petitioners seeking for the appointment of an Advocate Commissioner to send the disputed promissory note dated 27.10.2018 (Ex.A.1) and the disputed memorandum of deposit of title deed dated 31.10.2018 (Ex.A.3) to an expert for the purpose of getting a report with regard to the alleged signature of the petitioners found in those documents has been dismissed.

3. The respondent had filed the suit for recovery of money against the petitioners based on the memorandum of deposit of title deed dated 31.10.2018 and the promissory note dated 27.10.2018 said to have been executed by the petitioners in favour of the respondent. According to the respondent, the petitioners failed to repay the loan and only under those circumstances, the respondent filed the suit against the petitioners seeking recovery of money.

4. During the pendency of the trial and after P.W.2 was examined as a witness on the side of the respondent, the petitioners filed I.A.No.9 of 2025 seeking for the reliefs as stated supra, which came to be dismissed by the impugned order dated 18.06.2025. The trial court while dismissing the application has given the following reasons :-



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(a) if the defendants deny the execution of the promissory note, it is for them to prove that the promissory note was not executed by them in favour of the respondent.

(b) the expert opinion obtained u/s 45 of the Indian Evidence Act is a weak piece of evidence.

(c) as per Section 118 of the Negotiable Instruments Act, every negotiable instrument including the promissory note shall be deemed to be executed by a person concerned and on the date which is found thereon, however the said presumption is rebuttable.

(d) the defendants can rebut the presumption against him by adducing necessary evidence.

(e) there can be no hard and fast rule about seeking expert opinion with regard to the disputed signatures found in a document, but, in this case, one of the witnesses to the promissory note has been examined as P.W.2 on the side of the plaintiff and the cross-examination of P.W.2 was also completed.

5. Besides, on a perusal of the pleadings, there is no explanation from the petitioners to show as to how the certified copy of the sale deed dated 30.04.2010 under Ex.A.2 was given by them to the respondent as a security for the repayment of the loan. The respondent had issued a pre-suit notice dated 11.09.2021 to the petitioners demanding repayment of the loan and the



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petitioners have also acknowledged the receipt of the said legal notice in their written statement. In the said legal notice, the respondent has clearly indicated that the suit claim is based on the promissory note as well as the memorandum of deposit of title deed. Despite acknowledging the receipt of the legal notice, the petitioners did not reply to the legal notice by disputing the execution of the suit promissory note and the memorandum of deposit of title deed. Only after P.W.2 was examined as a witness on the side of the respondent, and P.W.2 is also one of the witnesses to the suit promissory note and after closure of the respondent's side evidence, the petitioners have filed an application seeking to send the disputed promissory note and the memorandum of deposit of title deed to an expert u/s 45 of the Indian Evidence Act.

6. The explanation of the petitioners in their written statement that they have approached the respondent immediately after the receipt of the legal notice and the respondent told them that only under the compulsion of his father, he had issued notice and also assured that no serious action would be taken against the petitioners, is only an after thought. Being aware of the fact that Ex.A.1 is in the custody of the respondent, the petitioners did not take any legal step to get back the promissory note from the respondent. An *ex-parte* judgment was



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passed against the petitioners in the suit on 07.03.2022 and only after the *ex-parte* decree and judgment was set aside on 20.01.2023, the petitioners have filed their written statement.

7. The petitioners have filed the application in I.A.No.9 of 2025 at a belated stage, after the cross-examination of P.W.1 and P.W.2, without any prima facie ground for getting an expert opinion with regard to the signature found in Ex.A.1 and Ex.A.3. Insofar as Ex.A.2 is concerned, there is no denial on the part of the petitioners and there is also no cogent explanation given by the petitioners as to how Ex.A.2 had gone to the hands of the respondent.

8. Learned counsel for the petitioners drew the attention of this Court to a judgment of a learned Single Judge of this Court in the case of ***H.Sumathi Vs. Nallammal Arul (died) & 9 Ors.*** reported in ***2025 (1) CTC 561*** and would submit that there is no hard and fast rule as to when an application can be filed seeking for expert opinion with regard to the disputed documents, and submission of contemporaneous documents. He would submit that only after the cross-examination of P.W.2 by the counsel for the petitioners, there was a necessity for the petitioners to file an application seeking expert opinion with



regard to the disputed documents. By relying upon the aforesaid decision, he would also submit that it is finally up to the expert to give an opinion as to whether he is in a position to compare the signatures, though the documents are separated by a long lapse of time. Therefore, he would submit that the trial court has erroneously dismissed the application filed by the petitioner seeking for an expert opinion with regard to the disputed documents.

9. On the other hand, the learned counsel for the respondent would reiterate the contents of the impugned order and would submit that there is no merit in this revision as the trial court has rightly dismissed the petitioners' application by giving sound reasons.

10. The trial court has elaborately considered the petitioners' application and has rejected the same by giving sound reasons to the contentions raised by the petitioners, which are once again raised in this revision. The findings of the trial court with regard to the petitioners' application, which have been recorded by this Court are only based on the records available before the trial court, which includes the documents filed by the respondent as well as the pleadings of the petitioners. There is no scope for interference of the impugned order as the trial court has rightly dismissed the petitioners' application by giving sound



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reasons, including the delay in filing the application as well as the fact that the petitioners have not acknowledged about the claim made by the respondent that the petitioners have executed a promissory note, chose not to seek return of the promissory note as well as the memorandum of deposit of title deed from the respondent, but instead chose to file an application seeking to send those disputed documents to the expert only after closure of respondent's evidence. Even though there is no hard and fast rule for the Court as to when an application seeking expert opinion with regard to the disputed documents can be entertained, this instant case does not deserve merit for sending the disputed documents to the expert opinion for the reasons stated supra by this court and the trial court.

11. For the foregoing reasons, this Court does not find any merit in this civil revision petition. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

28-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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ABDUL QUDDHOSE J.

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To

The XVII Additional City Civil Court,
Chennai.

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