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CRP No. 3094 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 13-07-2026**

CORAM

**THE HON'BLE MR JUSTICE ABDUL QUDDHOSE**

**CRP No. 3094 of 2025  
AND  
CMP NO. 17318 OF 2025**

K.Sivakumar

..Petitioner

Vs

R.Sumitra @ R.Esther Sumitra

..Respondent

**Prayer :** Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the order IA.No.6/2025 in OS.No.381 of 2010 dated 18.06.2025 on the file of the II Additional Subordinate Judge, Salem.

For Petitioner:

Mr.M.Muruganantham

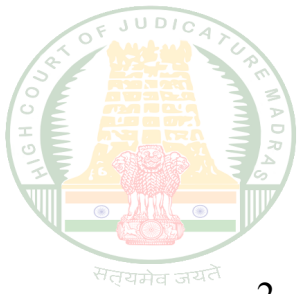
For Respondent:

Mr.P.Jagadeesan

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### **ORDER**

This Civil Revision Petition has been filed challenging the impugned order dated 18.06.2025 passed by the II Additional Sub Court, Salem in I.A.No.6 of 2025 in O.S.No.381 of 2010.



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2. In the aforesaid order, the application filed by the petitioner/2<sup>nd</sup> defendant seeking permission to receive the xerox copy of the promissory note dated 22.07.2003 by way of secondary evidence has been dismissed on the ground that, since the original promissory note has already been filed along with the suit by the respondent/plaintiff, the application seeking leave of the trial court to file promissory note (xerox copy) once again as a secondary evidence is inadmissible.

3. Learned counsel for the petitioner would submit that the respondent had materially altered the promissory note and therefore, there arose a necessity for the petitioner to file the xerox copy of the promissory note signed by the petitioner's father by way of secondary evidence. According to him, the trial court has erroneously rejected the petitioner's application through the impugned order. In respect of his contention that the trial court ought to have permitted the petitioner to file the xerox copy of the promissory note by way of secondary evidence, he drew the attention of this Court to the following authorities :-

(i) a decision rendered by the Madras High Court in the case of *Mariappan Vs. Sivanesan* reported in **2021 SCC OnLine Mad 10721** ;

(ii) a decision rendered by the Madras High Court in the case of *Uthirakosamangai & Ors. Vs. Gengaimuthu & Ors.*



reported in **2017 SCC OnLine Mad 3990** ;

(iii) a decision rendered by the Madras High Court in the case of **Mohammed Iqbal Vs. S.Manonmanian** reported in **2025 SCC OnLine Mad 6266**.

4. Relying upon the aforesaid decisions, learned counsel for the petitioner would submit that the trial court ought to have permitted the petitioner to file the xerox copy of the promissory note by way of secondary evidence, and allowed the said document to be marked as an exhibit subject to its admission, proof and relevancy. He would submit that the respondent will not be prejudiced if the trial court had allowed the application by permitting the petitioner to produce the xerox copy of the promissory note by way of secondary evidence as the respondent has got the right to cross-examine the petitioner's witness with regard to the veracity of the xerox copy of the promissory note produced by the petitioner.

5. On the other hand, the learned counsel for the respondent would submit that the application filed by the petitioner seeking to mark the xerox copy of the promissory note as an exhibit on the side of the petitioner is not maintainable, since the original of the said promissory note has already been filed by the respondent along with the suit. He would also submit that the genuineness of the signature found in the promissory note had already been confirmed by an expert



appointed by the trial court u/s 45 of the Indian Evidence Act, 1872. He also relied upon a decision of the Hon'ble Supreme Court in the case of ***H.Siddiqui (D) by Lrs. Vs. A.Ramalingam*** rendered on 04.03.2011 reported in ***AIR 2011 Supreme Court 1492*** and in particular, referred to paragraph No.12 of the said decision and submitted that secondary evidence relating to the contents of the document is inadmissible, until the non-production of the original is accounted for, so as to bring it within one or other of the cases provided u/s 65 of the Indian Evidence Act.

6. He would further submit that, since the original document has already been produced by the respondent along with the suit, the trial court has rightly rejected the application filed by the petitioner seeking leave to file the xerox copy of the promissory note by way of secondary evidence. He would also draw the attention of this Court to another judgment of the Andhra Pradesh High Court in the case of ***Chandabolu Bhaskara Rao Vs. Betha Saidi Reddy***, a decision rendered on 05.04.2006 reported in ***2006 (4) ALD 572***. Relying upon the aforesaid decision, he would submit that the xerox copy of a document need not necessarily be an exact or true replica of the original document, because some portions or parts of the writings in the original may be screened or shadowed by placing a paper thereon. He would submit that since the original of the promissory note has already been filed as a suit document by the respondent,



the trial court has rightly rejected the petitioner's application through the impugned order.

7. In the written statement, additional written statement as well as in the affidavit filed in support of I.A.No.6 of 2025, the petitioner, who is the legal heir of the deceased who is said to have executed a promissory note in favour of the respondent, has categorically disputed that the deceased had executed a promissory note in favour of the respondent, which is the suit promissory note.

8. The case of the petitioner is that the respondent has materially altered the promissory note executed by the deceased in favour of the respondent and by materially altering the same has filed the suit for recovery of money. The xerox copy of the promissory note produced by the petitioner before the trial court is not the exact or true replica of the original document, namely the suit promissory note filed by the respondent along with the suit. In the xerox copy of the promissory note as produced by the petitioner, the signature of the attester is missing, whereas in the suit promissory note filed by the respondent, the attester's signature is found. The further case of the petitioner is that his father never executed the promissory note that was filed along with the plaint by the respondent. Though in the written statement filed before the trial court at the first instance by the petitioner, no specific plea had been taken by the petitioner



that the respondent had materially altered the suit promissory note, but in the said written statement, the petitioner had categorically denied that his father had executed the suit promissory note in favour of the respondent. In the additional written statement filed by the petitioner, the petitioner had taken a plea that the respondent had materially altered the suit promissory note and only in support of the said plea, the petitioner claims that he had to file an application seeking leave of the trial court to file the xerox copy of the promissory note to establish that the respondent had materially altered the suit promissory note for filing a false suit against the petitioner. Even in the decision relied upon by the learned counsel for the respondent, namely the Andhra Pradesh High Court's decision in the case of ***Chandabolu Bhaskara Rao Vs. Betha Saidi Reddy***, referred to supra, it has been held that only in cases where it can be positively held that the xerox copy produced by way of secondary evidence is an exact and true replica of the original document produced earlier, an application seeking leave of the court to file xerox copy by way of secondary evidence is inadmissible in evidence.

9. In the case on hand, it cannot be conclusively established whether both the original promissory note produced by the respondent along with the suit, and the xerox copy of the promissory note produced by the petitioner are one and the same, since admittedly, the signature of the attestor is found missing in the



xerox copy of the promissory note produced by the petitioner, whereas the signature of the attester is found in the promissory note filed by the respondent along with the suit. Only after the cross-examination of the petitioner or his witness, the Court will be able to unearth the truth as to whether the suit promissory note filed along with the plaint was in fact executed by the petitioner's father or not. The trial court ought to have considered this fact and ought not to have rejected the petitioner's application by mechanically holding that since the original of the promissory note filed along with the plaint had already been filed by the respondent, and the application filed by the petitioner seeking leave of the trial court to file the xerox copy of the promissory note is inadmissible in evidence. The trial court has committed an error by dismissing the application filed by the petitioner. The trial court also ought to have taken into consideration the fact that even if the application is allowed and the xerox copy of the promissory note is allowed to be marked as an exhibit on the side of the petitioner, the said document can be marked as an exhibit only subject to its proof and relevancy.

10. As observed earlier, the respondent has got the right to cross-examine the petitioner with regard to the veracity of the xerox copy of the promissory note produced by the petitioner and has also got the right to raise all objections while submitting the arguments in the main suit. The decisions relied upon by



the learned counsel for the petitioner referred to supra also support the case of the petitioner with regard to the marking of the xerox copy of the promissory note produced by the petitioner by allowing the same to be marked subject to its proof and relevancy.

11. No prejudice would be caused to the respondent, if the xerox copy of the promissory note produced by the petitioner is allowed to be marked as an exhibit subject to its proof and relevancy, if the petitioner is confident of succeeding in the main suit by proving that the father of the petitioner had in fact not executed the promissory note in favour of the respondent, which has been filed as a document along with the plaint. The suit is of the year 2010 and therefore, considering the said fact, necessarily, this Court will have to direct the trial court to dispose of the suit, within a time frame to be fixed by this Court.

12. For the foregoing reasons, since the trial court has committed an error in dismissing the petitioner's application, the impugned order passed by the II Additional Sub Court, Salem in I.A.No.6 of 2025 in O.S.No.381 of 2010 is hereby set aside by this Court and the said court is directed to receive the xerox copy of the promissory note produced by the petitioner and mark the same as an exhibit on the side of the petitioner subject to its proof and relevancy. However, it is made clear that while deciding the main suit in O.S.No.381 of 2010, the II



Additional Sub Court, Salem shall decide the said suit uninfluenced by any of the observations made by the trial court under the impugned order as well as this Court through this order. The trial court, namely the II Additional Sub Court, Salem shall dispose of the suit in O.S.No.381 of 2010, within a period of six (6) months from the date of receipt of a copy of this order.

13. With the above observations and directions, this Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

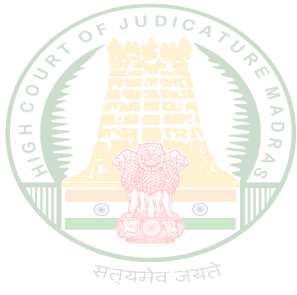
**13-07-2026**

Index: Yes/No  
Speaking/Non-speaking order  
Neutral Citation: Yes/No

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To

The II Additional Sub Court,  
Salem.



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**ABDUL QUDDHOSE J.**

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