

C.R.P.(PD)(MD)No.1390 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2026

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

C.R.P.(PD)(MD)No.1390 of 2023

and

C.M.P.(MD)No.6897 of 2023

R.Ramalingam

... Petitioner

Vs

Palaniyammal

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 10.01.2023 passed in I.A.No.47 of 2022 in O.S.No.157 of 2019 on the file of learned Additional District and Sessions Judge (FTC), Kumbakonam.

For Petitioner : Mr.A.Mohamed Haneef

For Respondent : Mr.A.N.Ramanathan.

ORDER

This Civil Revision Petition has been filed challenging the order passed by the trial Court allowing the application filed by the



C.R.P.(PD)(MD)No.1390 of 2023

respondent/second defendant seeking appointment of Advocate Commissioner to take disputed promissory note dated 10.12.2018 and equitable mortgage deed dated 10.12.2018 to finger print expert for comparison with signature of second defendant in the vakalat and written statement.

2. The petitioner herein filed a suit seeking recovery of money based on mortgage. The respondent/second defendant filed a written statement and denied the signature found in the promissory note and mortgage deed relied on by the appellant herein. Hence, she filed the instant application seeking appointment of Advocate Commissioner to take the disputed documents along with admitted signature of the second defendant found in pleadings and vakalat for comparison by expert. The trial Court allowed the same. Aggrieved by the same, the petitioner/plaintiff has come before this Court.

3. The learned counsel appearing for the petitioner would submit that the trial Court ordered comparison of the disputed signature with the signature of the second defendant found in pleadings and vakalat which came into existence subsequent to the dispute between the



C.R.P.(PD)(MD)No.1390 of 2023

parties. Therefore, the said order is untenable in law.

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4. The learned counsel appearing for the respondent would submit that if sufficient opportunity is given, the respondent would produce contemporaneous document for comparison by the expert. The learned counsel also drawn the attention of this Court to the observation made by the trial Court regarding comparison of the disputed document with contemporaneous document in its order.

5. This Court heard the submissions made by the learned counsel appearing on either side and perused the materials available on record.

6. The respondent herein filed a petition seeking comparison of the disputed document with her signature found in written statement and the vakalat in the present suit. The vakalat and written statement filed by the respondent came into existence subsequent to the dispute. Therefore, there is a likelihood of respondent changing the style of her signature and therefore, it is not safe to compare the signature of the respondent found in vakalat and pleadings in the present suit as per the



C.R.P.(PD)(MD)No.1390 of 2023

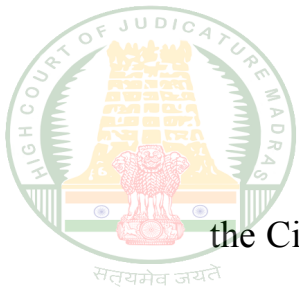
law settled by the Division Bench of this Court in ***Central Bank of India***

Vs. Antony Hardware Mart and Others reported in ***2006 (3) CCC 285***.

Therefore, the prayer sought for by the respondent seeking comparison of the disputed signature with the present pleadings and vakalat cannot be accepted. In the light of the law laid down by the Division Bench of this Court in the above mentioned case laws, the fair and decreetal order passed by the trial Court deserves to be set aside.

7. The learned counsel appearing for the respondent had drawn the attention of this Court to the observations made by the trial Court with regard to the comparison of the disputed signature with the contemporaneous document submitted by the respondent. Even though there is a passing observation in the order regarding comparison of the disputed signature with contemporaneous document ultimately, the petition filed by the respondent stood allowed without any clarification that whether the disputed signature should be compared with the written statement and vakalat or the contemporaneous document to be supplied by the respondent.

8. In such circumstances, I have no hesitation in allowing



C.R.P.(PD)(MD)No.1390 of 2023

the Civil Revision Petition. Accordingly, the impugned order is set aside and the Civil Revision Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

9. However, it is made clear if the respondent is able to produce any contemporaneous document before the trial Court within a period of two weeks from the date of receipt of a copy of this order along with necessary application for comparison of the disputed signature with contemporaneous authenticated document like registered document, driving license and pan card etc., the same shall be considered by the trial Court in accordance with law.

02.07.2026

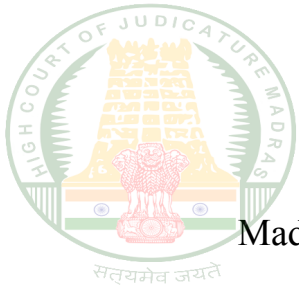
NCC : Yes / No
Index : Yes / No

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To

1. The Additional District and Sessions Judge (FTC),
Kumbakonam.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,

5/7



Madurai.

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C.R.P.(PD)(MD)No.1390 of 2023



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C.R.P.(PD)(MD)No.1390 of 2023

S.SOUNTHAR, J.

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C.R.P.(PD)(MD)No.1390 of 2023

02.07.2026