



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.06.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.724 of 2023 and

C.M.P.No.5623 of 2023

J.Gopinathan

... Petitioner

Vs.

A.Periyannan

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order, dated 09.01.2023 passed in I.A.No.01/2022 in O.S.No.249/2016 on the file of the Principal Subordinate Judge, Dharmapuri.

For Petitioner : Mr.C.Prabakaran
For Respondent : Mr.C.Krishna karthi

ORDER

Heard Mr.C.Prabakaran, learned counsel for the petitioner and Mr.C.Krishna Karthi, learned counsel appearing for the Respondent.

2. The petitioner/plaintiff, aggrieved by the dismissal of I.A.No.1/2022, dated 09.01.2023 on the file of the Principal Sub Judge, Dharmapuri, has come up by way of this Revision Petition.



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3. The suit is one for recovery of money. The plaintiff has taken out an application in I.A.No.1 of 2022 in the said suit, pending trial seeking for an expert opinion to compare the signatures and thumb impression of the respondent / defendant found in the suit promissory note with the thumb impression found in the registered mortgage deed. The said application was contested by the respondent/defendant and the trial Court proceeded to dismiss the application on the ground that the petitioner/plaintiff did not file any objection to the earlier expert opinion's report.

4. Mr.C.Prabakaran, learned counsel for the petitioner would submit that the disputed promissory note contains not only signature of the respondent/defendant, but also left thumb impression and attempt to have sought for an expert opinion in the earlier instance at the behest of the respondent/defendant was only the signature and not the thumb impression. He would therefore state that there was no embargo for the petitioner to take out the present application seeking comparison of the left thumb impression found in the promissory note to be compared with the left thumb impression of the respondent/defendant in the memorandum of deposit of title deeds, dated 09.05.2013, a registered instrument. He would therefore pray for the



revision being allowed, setting aside the order of dismissal made in I.A.No.1/2022.

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5. Per contra, Mr.C.Krishna Karthi, learned counsel appearing for the Respondent would submit that the trial Court has rightly dismissed the application since already an application was filed by the respondent/defendant for comparison of the signatures in the promissory note and unfavourable report / findings have been rendered / given by the expert holding that the signatures are different. He would therefore state that belatedly the petitioner / plaintiff is trying to improve his case by seeking comparison of the left thumb impression.

6. I have carefully considered the submissions advanced by the learned counsel appearing on either side.

7. It is the case of the plaintiff that the respondent / defendant has borrowed money from the plaintiff and executed a promissory note, evidencing the borrowing, undertaking to repay the said amount borrowed, on demand together with an agreed rate of interest. However, the



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respondent/defendant has denied not only the borrowing, but also execution of the promissory note. In order to establish that the respondent/defendant had alone executed the promissory note, he has filed an Interlocutory Application in I.A.No.16/2021, in and by which comparison of the signature found in the promissory note, with the signatures found in the vakalatnama as sought for. The said application was allowed permitting the comparison of the admitted signatures alone and not the left thumb impression.

8. It is true that the report has been given by the experts, finding that the signature in the said promissory note and the mortgage deed are different and not one and the same. It is under such circumstances, the present application was taken out, seeking comparison of the left thumb impression in the promissory note with the left thumb impression in the memorandum of deposit of title deeds. Admittedly the memorandum of deposit of title deeds dated 09.05.2013 is a registered document which admittedly contains not only signatures, but also the left thumb impression of the respondent/defendant. In such circumstances, when an application filed prior to the disposal of the suit before the Court of first instance, the Court should have favourably entertained the said application. The reason



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assigned by the trial Court that the plaintiff did not file any objections to the earlier expert opinion report, is totally unsustainable because the expert opinion report is only pertaining to the signatures found and not the left thumb impression. Therefore, I am unable to sustain the findings of the trial Court, dismissing I.A.No.1/2022.

9. In fine, the Civil Revision Petition is allowed. The order in I.A.No.1/2022, dated 09.01.2023, is set aside. The trial Court is directed to call for the report of the expert opinion regarding the left Thumb impressions found in the disputed promissory note after comparison with the admitted left thumb impression found in the memorandum of deposit of title deeds, dated 09.05.2013 and the expert is requested to give the report expeditiously. Thereafter, the trial Court shall decide the issue after trial and the suit shall be disposed within a period of six months from the date of receipt of the expert opinion. No costs. Consequently, connected miscellaneous petition is closed.

13.06.2025

Speaking Order/Non-speaking Order

Index : Yes / No

Neutral Citation : Yes/No

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P.B. BALAJI,J.

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To

The Principal Subordinate Judge, Dharmapuri.

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