



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.03.2025

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

A.Nos.848, 849 of 2025 & 3381 of 2024
in C.S.(Comm.Div.) No.79 of 2024

Srk Cinemas
2173 L Block 6th Cross Street 12 Main Road Anna Nagar
Chennai and 4 Others.

... Applicant

-VS-

R Kothandaraman
S/o.Ratinam, Proprietor M/s.Manasarovar Financial Services,
No.29/2, Akbarabad First Street,
Kodambakkam, Chennai 600 024.

... Respondent

For Applicant : Mr.Dinesh Ravi
for M/s.S.R.Babu

For Respondent : Mr.Arokia Sathish
for M/s.G.Senthil Kumar

ORDER

These applications have been filed by the defendant after evidence was recorded in full in the suit. By A.No.3381 of 2024, the defendant seeks leave to file the additional written statement of D1 and D2 and the adoption

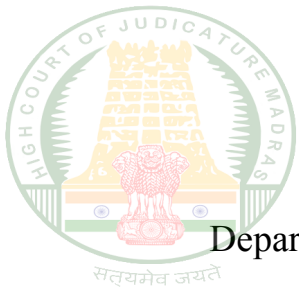


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memo in respect thereof for D3 to D5. In the affidavit in support of this application, it is stated that the defendant obtained a report from M/s.Truth Labs dated 30.04.2024 in respect of the signature on Ex.P3, and that it was stated in the report that the person who signed all documents labelled as S1 to S26 and S16a did not sign the documents labelled as Q1 and Q2. In order to place this report on record, it is stated that it is necessary for the defendants to file an additional written statement.

2. On perusal of the written statement of defendants 1 and 2, it is noticeable that Ex.P3 (referred to therein as Document No.3) was denied on the basis that the signature of the second defendant thereon is forged. Therefore, the pleading to adduce evidence with regard to Ex.P3 being forged is already available. Consequently, this does not qualify as justification for permission to file an additional written statement. Hence, the said application is liable to be rejected.

3. By A.No.849 of 2025, the applicant seeks a direction to send Ex.P3 to a handwriting expert at the office of the Director, Forensic Sciences



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Department, Mylapore, Chennai. Although the first and second defendants denied the signature of the second defendant on Ex.P3, in the written statement filed in April 2024, an application to send the document for forensic examination was not filed earlier and the defendants proceeded to conclude the examination of both P.W.1 and D.W.1. In the affidavit in support of this application, the defendants do not seek comparison of the signature on Ex.P3 with admitted signatures on contemporaneous documents. Instead, the justification in the affidavit is entirely on the basis of the report obtained unilaterally from M/s.Truth Labs by the defendants. Especially upon taking into consideration the present stage of the suit, this application is liable to be dismissed.

4. By A.No.848 of 2025, the defendant seeks to subpoena Pachaiyappan, Srikrishnan and Karthikeyan. In the affidavit in support of the application, it is stated that the plaintiff had originally cited Pachaiyappan and Srikrishnan as P.W.2 and P.W.3. It is further stated that the plaintiff proceeded to examine himself as P.W.1, but did not examine either Pachaiyappan or Srikrishnan. Learned counsel states that these



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persons were the witnesses of Exs.P1 and P3 and are, therefore, required to be examined.

5. Learned counsel for the plaintiff states that these witnesses could not be examined in view of the limited time fixed by this Court in the case management schedule. Learned counsel also submitted that these witnesses were unwilling to depose. He further states that he has no objection to the witnesses to Ex.P3 being summoned by recording evidence.

6. On examining the written statement, it is noticeable that the first and second defendants denied the signature of the second defendant in Ex.P3, but no such denial has been made with regard to Ex.P1. The witnesses in Ex.P3 are Pachaiyapan and Srikrishnan. Therefore, a case is made out to issue a subpoena to the witnesses in Ex.P3.

7. Therefore, these applications are disposed of as follows:

(i) A.No.3381 of 2024 is dismissed with costs of Rs.10,000/- (Rupees Ten Thousand only) payable by the applicants / defendants to the plaintiff.



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(ii) A.No.849 of 2025 is dismissed with costs of Rs.10,000/- (Rupees

Ten Thousand only) payable by the applicants / defendants to the plaintiff.

(iii) A.No.848 of 2025 is partly allowed by issuing a subpoena to the following witnesses:

(a) *Pachaiyappan, S/o.Ramanathan, No.103, Bakthavatchalam Colony 1st Street, Vadapalani, Chennai 600 026.*

(b) *Karthikeyan, S/o.Thangamani at No.29/2, Akbarabad First Street, Kodambakkam, Chennai 600 024.*

(iv) The summons shall indicate 17.03.2025 as the hearing date. The evidence of the two witnesses shall be recorded in full between 17.03.2025 and 21.03.2025.

(v) The above mentioned costs shall be paid to the plaintiff within a period of **two weeks** from the date of receipt of a copy of this order.

10.03.2025
(1/2)

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