



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.1410 of 2025
& CMP.No.8316 of 2025

P.Shanmugam

... Petitioner

Vs.

S.S.Mahalingam

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the impugned fair and final order dated 04.03.2025 passed by the learned Subordinate Judge, Avinashi in I.A.No.1037 of 2024 in O.S.No.48 of 2017.

For Petitioner : Mr.S.Diwakar
for Mr.A.Govindharaj

For Respondent : Mr.M.Guruprasad

ORDER

The 2nd defendant in O.S.No.48 of 2017 is the revision petitioner herein. Pending a suit for specific performance, the 2nd defendant took out an application in I.A.No.1037 of 2024 seeking to send the original affidavits in I.A.No.1048 of 2001, I.A.No.1059 of 2001 and I.A.No.1060 of 2001 for



comparison with the alleged suit sale agreement. The said application came to be dismissed, as against which, the present revision has been filed.

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2.I have heard Mr.S.Diwakar for Mr.N.Sathishkumar, learned counsel for the revision petitioner and Mr.M.Guruprasad, learned counsel for the respondent .

3.The learned counsel for the revision petitioner would submit that right from the filing of the written statement, it is the specific case of the petitioner that the plaintiff is a total stranger to him and at no point of time, the petitioner had entered into any sale agreement with the plaintiff in respect of the suit property. He would also state that in order to establish that the signatures found in the sale agreement are forged, the revision petitioner had taken out an application in I.A.No.645 of 2019 to send for the original plaint and affidavit containing the signature of the 2nd defendant/revision petitioner in O.S.No.382 of 2001. The said application was allowed, however, despite steps taken, it yielded no results since the original plaint was not available with the Court records.



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4.It is further contended by Mr.Diwakar, learned counsel for the petitioner that even thereafter, the revision petitioner has diligently followed up the matter by filing I.A.No.1037 of 2024, after ascertaining that the affidavits in I.A.Nos.1048, 1059 & 1060 of 2001 were available and the same could be compared with the alleged sale agreement in order to establish a plea of forgery. The learned counsel would also invite my attention to the order in I.A.No.525 of 2006, which was an earlier application filed for appointment of a Commissioner to take documents from the custody of the Court, in order to have them compared with an expert. Even the said application was allowed and in compliance with the orders of the Court, the revision petitioner had deposited a sum of Rs.7,000/- towards meeting the expenses / charges of the expert as well as the Advocate Commissioner's fee. I.A.No.525 of 2006 has been filed, but however, for reasons not known it appears that the purpose of Commission could not be achieved. Thereafter, he filed IA.No.645 of 2019 for comparing the signature in the original plaint. The learned counsel would therefore state that the applications were only a consequential application to have the signatures compared and the trial Court ought to have allowed the same and has instead proceeded to dismiss on erroneous consideration, as if the petitioner is trying to drag the proceedings.



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5.Per contra, Mr.Guruprasad, learned counsel for the respondent/plaintiff would state that several opportunities were granted to the revision petitioner and after taking numerous adjournments, the details of which have been extracted by the learned trial Judge in the interim order, the trial Court has proceeded to dismiss the application. He would further state that the trial Court has taken into account the fact that the suit is pending for 25 years and the revision petitioner has been filing some applications or the other to protract the proceedings. He would therefore pray for confirming the order of the trial Court, by dismissing the revision petition.

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

7.The fact remains that the suit is one for specific performance of an agreement of sale. The specific defence raised by the revision petitioner is that the said agreement of sale is a forged document and he has not entered into any such agreement, much less with the plaintiff. At the earliest instance, the revision petitioner has attempted to establish that the signatures in the suit sale agreement are forged, in that regard he has taken out



I.A.No.525 of 2006 and the said application was also allowed by appointing a Commissioner to take the original documents to an expert for comparison.

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Thereafter, I.A.No.645 of 2019 for sending the original plaint containing the signature of the second defendant, the said application was also allowed and the revision petitioner has taken steps by filing bata memo. However, it was reported that the plaint was not available in the Court records. In view of the same, the present interlocutory application in I.A.No.1037 of 2024 was taken out to send for the original affidavits of the revision petitioner in I.A.No.1048 of 2001, I.A.No.1059 of 2001 and I.A.No.1060 of 2001, which contains the signatures of the revision petitioner, to be compared with the signatures in the alleged sale agreement.

8.Moreover, I find that the affidavits, which are now sought to be produced have been executed by the revision petitioner on 24.07.2001. The alleged suit sale agreement is said to have been executed on 14.07.2001 and therefore, the documents which are sought to be compared are certainly relevant and contemporaneous as well. When the revision petitioner has specifically alleged that the signatures in the sale agreement are forged, a fair opportunity ought to have been given by the trial Court, instead of dismissing the application, citing delay.



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9.The trial Court should have taken note of the fact that the petitioner has taken bonafide steps by filing interlocutory applications at earlier points of time and the same were also favourably considered and allowed in his favour. Despite the said applications being allowed, for reasons beyond the control of the revision petitioner alone, the object of comparison of signatures could not be achieved. It is also now brought to my notice that the affidavits filed in interlocutory applications in O.S.No.382 of 2001 are available in original.

10.In the light of the above, I am inclined to allow the revision and set aside the order of the trial Court. The trial Court shall send for the original affidavits in I.A.No.1048 of 2001, I.A.No.1059 of 2001 and I.A.No.1060 of 2001 and on receipt of the same, shall appoint an Advocate Commissioner at the costs of the revision petitioner to take the said affidavits, along with the suit sale agreement dated 14.07.2001 and handover the same to forensic expert and obtain a report. The forensic expert is requested to complete the comparison analysis and handover the report in a sealed covered to the advocate commissioner, preferably within a period of two months and the said report along with the original sale agreement and the affidavits shall be



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handed over by the Advocate Commissioner to the trial Court, immediately on receipt of the same from the handwriting expert. Considering that the suit is of the year 2017, I direct the trial Court to dispose of the suit, within a period of four months from the date of receipt of the report from the handwriting expert.

11.In fine, the Civil Revision Petition is allowed and the order dated 04.03.2025 in I.A.No.1037 of 2024 in O.S.No.48 of 2017 on the file of the Subordinate Judge, Avinashi, is set aside. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

24.07.2025

Index : Yes / No

Internet : Yes / No

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To

The Subordinate Judge, Avinashi.

P.B. BALAJI,J.

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