



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 17.09.2025

Order pronounced on : 26.09.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.Nos.1603 & 1604 of 2025

& CMP.No.9287 of 2025

M.Ethirajan

... Petitioner in both CRPs

Vs.

G.Varalakshmi

... Respondent in both CRPs

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 07.03.2025 passed in I.A.No.5 & 6 of 2024 in A.S.No.78 of 2023, by the XVI Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.S.Vasudevan

For Respondent : No appearance

COMMON ORDER

The defendant in a suit filed under Order XXXVII Rule 1 and 2 of CPC, aggrieved by the dismissal of an application seeking leave to defend the suit and having challenged the same by way of an appeal in A.S.No.78



WEB COPY

of 2023, is the revision petitioner. In the pending appeal, the revision petitioner had filed I.A.No.6 of 2024 under Section 45 of the Indian Evidence Act for sending the disputed signature in the promissory note for comparison to the expert. The said application was taken out, along with another application for adducing additional evidence in the appeal. The First Appellate Court has dismissed both the applications, as against which, the defendant has come up by way of the present revisions.

2.I have heard Mr.S.Vasudevan, learned counsel for the petitioner/defendant in both the revisions. Despite service of notice, the respondent/plaintiff has not chosen to appear either in person or through counsel. I have proceeded to hear Mr.S.Vasudevan, learned counsel for the petitioner. I have gone through the records.

3.The respondent herein has filed the suit in O.S.No.4370 of 2021 as a summary suit under Order XXXVII Rules 1 and 2 of CPC. The petitioner took out an application in I.A.No.1 of 2022, seeking leave to defend the said suit. The Trial Court dismissed the application and refused to grant leave to



WEB COPY

defend the suit. Challenging the judgment and decree in O.S.No.4370 of 2021, the defendant has preferred A.S.No.78 of 2023. In the pending appeal, the defendant has filed I.A.No.6 of 2024 for sending the disputed promissory note to the forensic lab, for expert opinion. The First Appellate Court has dismissed the application, as against which, one revision has been filed. In view of the dismissal of the application to adduce additional evidence in the appeal, the second revision has also been filed.

4.The learned counsel for the petitioner would take me through the defence taken in I.A.No.1 of 2022, being the application for leave to defend the suit and contend that the defendant had specifically denied the execution of the promissory note, besides also claiming that he never borrowed any money from the plaintiff and that there was no privity of contract between the petitioner and the respondent.

5.As the Trial Court has refused to grant leave and dismissed the said I.A.No.1 of 2022, the revision petitioner has challenged the decree passed against the petitioner in the suit, consequent to dismissal of the application



WEB COPY

for leave to defend. In order to establish that the suit promissory note is forged, the petitioner was constrained to take out an application in the pending appeal. However, as rightly contended by the learned counsel for the petitioner, the First Appellate Court has arrived at an incorrect conclusion that the petitioner has not denied the signature in the promissory note, without noticing the specific stand taken in the application for leave to defend. However, the First Appellate Court was right in observing that the petitioner has also not relied on or produced any admitted signatures to enable the forensic expert to even compare the disputed signatures with the admitted signatures. However, this defect can always be cured and cannot be a ground to dismiss the application itself.

6. In view of the above discussion, I am inclined to set aside the order of the First Appellate Court in I.A.No.6 of 2024, refusing to refer the disputed promissory note dated 20.06.2018 to the forensic lab for comparison.



WEB COPY

7. In fine, CRP.No.1604 of 2025 is allowed in the manner following:

(i) The order dated 07.03.2025 in I.A.No.6 of 2024 in A.S.No.78 of 2023 on the file of the XVI Additional Judge, City Civil Court, Chennai, is set aside.

(ii) The petitioner/appellant shall produce admitted signatures of the petitioner to enable comparison by the forensic expert. On such admitted and contemporaneous signatures being filed before the First Appellate Court and on being satisfied about the same, the First Appellate Court shall appoint an Advocate Commissioner for taking the disputed promissory note dated 20.06.2018 in original, along with the originals of the admitted and contemporaneous signatures and hand over the same to the forensic laboratory and obtain a report regarding the disputed signature in the promissory note dated 20.06.2018.

(iii) After receipt of the report from the forensic expert, the Appellate Court shall decide the appeal on merits and in accordance with law, taking into account the findings of the forensic lab/handwriting expert as well.



WEB COPY

8.Insofar as CRP.No.1603 of 2025, in view of the orders passed in CRP.No.1604 of 2025, I do not find any necessity for permitting the revision petitioners to adduce additional evidence. In fact, the original promissory note has already been marked before the Trial Court as Ex.R1 in the leave to defend application. Therefore, no orders are necessary in CRP.No.1603 of 2025. Accordingly, the same is dismissed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

26.09.2025

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

ata



WEB COPY

To
The XVI Additional Judge, City Civil Court, Chennai.



WEB COPY



P.B. BALAJI,J.

ata

Pre-delivery order made in
CRP.Nos.1603 & 1604 of 2025
& CMP.No.9287 of 2025

26.09.2025