



O.S.A.Nos.131, 132 & 133 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on: 17.09.2025

Delivered on: 25.09.2025

CORAM

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN

O.S.A.Nos.131, 132 & 133 of 2024

and

C.M.P.Nos.16751, 23934, 16994, 16744 of 2024

Andromeda Fashions Limited,
Represented by its Director,
Pradeep Singhania,
11-B, SIDCO Industrial Estate,
Ambattur, Chennai – 600 098.

... Appellant in all OSAs

/versus/

1. Samir Suri,

2.Samir Suri Inc.,
Rep. By Samir Suri,
850, South Broadway,
Suite 700, Los Angeles CA 90014,
United States of America.

3. Mrs.Uma Suri,
C-644 New Friends Colony,
New Delhi 110 065.

Residing at:

3619 Dunn DR

Los Angeles CA – 900 34, USA

... Respondents in all OSAs

Prayer in O.S.A.No.131 of 2024: Appeal filed under Order XXXVI Rule 1 of the Madras High Court Original Side Rules under Clause 15 of Letters Patent against judgment and decree dated 28.03.2024 in A.No.974 of 2024 in A.No.5583 of 2022 in C.S.No.536 of 1999.



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Prayer in O.S.A.No.132 of 2024: Appeal filed under Order XXXVI Rule 1 of the Madras High Court Original Side Rules under Clause 15 of Letters Patent to set aside the judgment and decree dated 28.03.2024 in A.No.976 of 2024 in A.No.5583 of 2022 in C.S.No.536 of 1999.

Prayer in O.S.A.No.133 of 2024: Appeal filed under Order XXXVI Rule 1 of the Madras High Court Original Side Rules under Clause 15 of Letters Patent to set aside the judgment and decree dated 28.03.2024 in A.No.975 of 2024 in A.No.5583 of 2022 in C.S.No.536 of 1999.

For Appellant : Mr.R.Srinivas, Senior Counsel,
(in all OSAs) for Mr.K.Ashok Kumar.

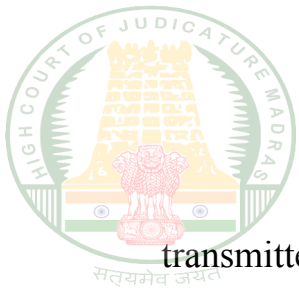
For Respondents : Mr.K.V.Babu, Senior Counsel,
(in all OSAs) for Mr.S.K.Rameshwar, for R1

COMMON JUDGMENT

Prelude:

C.S.No.536 of 1999 is filed for recovery of Rs.62,64,658.40, with interest at the rate of 24% p.a., on the principal amount of Rs.40,67,960/- from the date of plaint till the date of recovery.

2. The suit was decree *exparte* on 26.04.2012. The decree-holder had resorted to execution of the decree by filing E.P.No.151 of 2013, which was



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transmitted to Execution Court at Delhi and renumbered as E.P.No.258 of 2013.

Subsequently, it was re-transferred to District Court, Delhi and renumbered as E.P.No.210 of 2017. While the Execution Petition is pending, the 1st respondent/judgment debtor has taken out an Application No.5583 of 2022 before the Original Side Jurisdiction of this Court, which has passed decree in C.S.No.536 of 1999.

3. The prayer sought in Application No.5583 of 2022 is as below:-

Application No.5583 of 2022 is filed to set aside the *ex parte* decree along with application to condone delay in filing the application to set aside the *ex parte* decree. The plaintiff, who is the *ex parte* decree holder, has filed counter seeking dismissal of the application to set aside the *ex parte* decree with an enormous delay of 3784 days. Pending the application to set aside the *ex parte* decree, the decree holder has also ventured to take out three Application Nos.974, 975 and 976 of 2024, to initiate contempt proceedings against the 1st defendant for forging the signature in the affidavit filed in Application No.5583 of 2022, to send the disputed signature in the affidavit for comparison with the admitted signature to get opinion of the handwriting expert. The decree-holder also request the Court to compare the disputed signature with the admitted



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signatures through naked eye and proceed.

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4. The Learned Single Judge, after considering the prayers in these three Applications Nos.974, 975, 976 of 2024 and the counter, held that the facts and circumstances of the case, the need for comparison of the signature found in the affidavit filed along with A.No.5583 of 2022 does not arise. The signature is not disputed by the executant, who has signed the affidavit. The signature is denied by his advisory. The dispute and the scope for comparison will arise only when one party relies on a document signed by another party and makes out a case in their favour based on the contents of the document and when the executing party denies the signature found in the document. In view of the Learned Single Judge, the 1st respondent (the deponent of the affidavit), has admitted the signature and given a plausible reason why in the jurist portion it is mentioned as executed in Chennai. Since the executant has not disputed the signature, the affidavit cannot be treated as false or bogus and therefore, the question of comparison does not arise.

5. The Learned Single Judge, after observing that the application is to



condone delay in filing the application to set aside the *ex-parte* decree, held that the present Application has been filed only to drag the proceedings without allowing the Court to decide the Application No.5583 of 2022. Therefore, the applications were dismissed, with an observations that though it is a fit case for imposing of costs, the Court refrains from doing so.

6. Being unsatisfied with the observations and dismissal of the three applications, the decree holder/applicant filed an intra-court appeal, which are numbered as O.S.A.Nos.131, 132 and 133 of 2025.

7. Two Learned Judges of this Court, who had gone into the merits of the Applications and the facts, had delivered a split verdict.

While one of them, *Dr.Justice Anita Sumanth*, had ventured to compare the admitted signature with the disputed signature exercising power under Section 73 of Indian Evidence Act held that there is apparent difference between the signatures in Group 1 documents and Group 2 documents.

- Group 1 documents are the signatures found in the affidavit and Vakalatnama.



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Group 2 documents are the signatures found in the 1st rejoinder dated 27.12.2022 and the relinquish deed dated 08.02.2017 as well as the affidavit dated 11.09.2013 and the counter affidavit dated 29.02.2024.

8. The judgment of the Hon'ble Supreme Court in *Afzal and another vs. State of Haryana and others* reported in (1996) 7 SCC 397, relied wherein the Supreme Court has held that an erroneous statement before the Court amounts to interference in the judicial process, since the disputed signature and admitted signature does not tally, it has to be concluded that fraud has been committed by 1st defendant/judgment debtor.

9. In respect of the other two appeals arising out of dismissal of the application to initiate the contempt proceedings and to send the documents for expert opinion, the Learned Judge thought fit that having given a finding regarding the disputed signature by comparison in exercising the powers conferred under Section 73 of the Evidence Act, there was no necessity to obtain opinion of expert.

10. Regarding Application to initiate contempt proceedings, the appeal was dismissed stating that she is not inclined to precipitate the matter at



this juncture.

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11. Contrarily, the Learned *Justice C.Kumarappan*, after considering the rival submissions and the judgment of the Hon'ble Supreme Court rendered in *Sasikala Pushpa and others vs. State of Tamil Nadu* reported in **2019(6) SCC 477**, held that he is of the indubitable view that the ratio laid down in *Sasikala Pushpa case* squarely applies to the facts of the present case. The variations in the signatures found in the original affidavit and the rejoinder need no testing since the deponent claims the signatures as his own and the deponent would benefit nothing by presenting the application with a forged signature. Hence, the Learned Judge observed that when the deponent admits authorship of the signature, on suspicion raised by the other party, there is no necessity for the Court to send the documents for handwriting expert opinion or for comparison. While so, there is no factual foundation to invoke contempt proceedings, hence these three appeals directed against the dismissal of the applications require no interference.

12. The cleavages between the two Learned Judges regarding the need



to test the genuineness of the signature found in the affidavit filed to set aside the *exparte* decree and for condonation of delay stems out the point, whether such an exercise to be done at the instances of the party other than the deponent himself.

13. The Learned Senior Counsel appearing for the appellant/decreed-holder primarily contended that on the alleged dates of signing the vakalatnama i.e., 19.08.2022, as well as signing the affidavit accompanied with A.No.5583 of 2022 i.e., 04.08.2022, the deponent, who is the 1st defendant, was not in India. However, these two documents, namely vakalatnama and the affidavit appear as if the deponent had come down to Chennai and affixed his signature.

14. In the counter filed in Application No.5583 of 2022, it was pointed out that the signatures found in Vakalatnama as well as the affidavit would not have been affixed by the deponent and the signatures are forged. In response, the respondents have come out with a rejoinder stating that the signatures were affixed by him. However, he has admitted that it was not affixed at Chennai. Due to inadvertence the place of execution of the affidavit is wrongly mentioned as Chennai. Additional rejoinder also filed by the

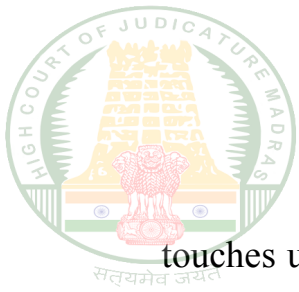


respondent/judgment debtor, again admitting ownership of the signature.

However, a bare perusal and comparison of the signatures found in Vakalatnama and affidavit with that of the 2nd rejoinder and the relinquished deed executed before the Sub-Registrar, executed on 07.02.2017, the forgery is apparent.

15. The Learned Single Judge erroneously refused to compare the signatures. However, on Appeal, one of the Learned Judges in the Bench had undertook the exercise of comparing the admitted signatures with the disputed documents and had come out with the clear finding that the signatures differs. The Learned Judge has observed that the signatures found in the Vakalatnama and Affidavit filed in support of condonation of delay application are not that of the persons who has signed the relinquish deed as well as the 2nd rejoinder. While so, the other Learned Judge had declined to take the exercise of comparison, holding that when the deponent does not deny the signatures, there is no necessity to compare the signatures at the instance of the other party.

16. The Learned Senior Counsel for the appellant claims that it is not mere acceptance or the denial of the signature found in the documents, but it



touches upon the Administration of justice. If it is proved that the Vakalatnama as well as the affidavit filed to set aside the ex-parte decree are based on the forged signatures then, it tantamounts interference with the Administration of Justice and hence, to find the truth, the appeals ought to be allowed. The opinion of *Dr. Justice Anita Sumanth*, relying upon the judgment of the Hon'ble Supreme Court render in *Afzal and another Vs. State of Haryana and others* reported in *(1996) 7 SCC 397*, distinguishing the judgment in *Sasikala Pushpa and others vs. State of Tamil Nadu* reported in *(2019) 6 SCC 477*, has to be upheld.

17. In support of his arguments, the Learned Senior Counsel appearing for the appellant also rely upon the following judgments:

1. *S.P.Chengal Varaya Naidu (Dead) by LRs vs. Jagannath (Dead) by LRs and another* reported in *(1994) 1 SCC 1*;

2. *Mannalal Khetan and others vs. Kedar Nath Khetan and others* reported in *(1977) 2 SCC 424*.

3. *Afzal and another vs. State of Haryana and others* reported in *(1996) 7 SCC 397*.

4. *Dy.General Manager redesignated as Dy.Director, ISB and others Vs. Sudarshan Kumari*



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and others reported in (1996) 3 SCC 763;

5. Perry Kansagra, in re reported in (2023) 16 SCC 631.

6. C.Elumalai and others vs. A.G.L.Irudayaraj and another reported in (2009) 4 SCC 213.

7. Lalit Popli vs. Canara Bank and others reported in (2003) 3 SCC 583.

8. Ajay Kumar Parmar vs. State of Rajasthan reported in 2012 SCC OnLine SC 797.

9. Selvan vs. Azhagan and others reported in 2011 (2) MWN (Civil) 536.

10. National Insurance Company Limited vs. Pranay Sethi and others reported in (2017) 16 SCC 680.

11. Padma Sundara Rao (Dead) and Others vs. State of T.N and others reported in 2002 SCC OnLine SC 334.

12. Sanjay Kumar Singh vs. State of Jharkhand reported in (2022) 7 SCC 247.

18. The learned Senior Counsel appearing for the 1st respondent submitted that the appellant, who had obtained the *ex-parte* decree by suppressing the true address of the defendant and by furnishing the false e-mail



address, wants to take advantage of his fault and get the ex-parte decree executed. For the said purpose, he is bent upon to make out a case as if the judgment debtor had forged the document, thereby interfering with the Administration of Justice. The authorship of the affidavit and the signature in it is that of the respondent and no person has right to doubt the genuineness of his signature.

19. The 1st respondent had admitted that he had signed the Vakalatnama and Affidavit and suit in advance to his Counsel expecting arrival to Chennai. Later, he signed the documents and forwarded them to his Counsel ahead of his visit. However, due to unavoidable reasons, he could not come from US to Chennai. Meanwhile, an application been filed. Having realised that the jurat portion of the affidavit it has been wrongly mentioned that the affidavit been sworn in Chennai, he has filed an Affidavit tendering apology. When there is no malafide intention to commit fraud, the issue need not be sidetracked. The comparison of the signature will arise only if the person who has purported to have signed the document denies the signature.

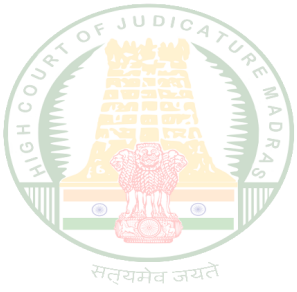
20. Mr.K.V.Balu, Learned Senior Counsel for the 1st respondent



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submitted that in this case, Mr.Samir Suri, who is the deponent of the affidavit and the signatory to the vakalatnama, is not denying the signature. There is no wrongful gain for him by forging the signature. The dispute regarding the genuineness of the signature cannot be raised by the appellant herein. In any event, while the Court is excepted to decide the application for setting set aside *exparte* decree on its merits, the appellant herein, by raising the untenable allegations, detracting the process. The Learned Single Judge has rightly observed about the conduct of the appellant herein and also recorded that, though it is a fit case to impose costs, the Court refrain from doing so. In spite of such reprimand, the appellant not ready to face the application to set aside the *exparte* order which was obtained by furnishing false e-mail address but he wants to torpedo the lawful right of the judgment debtor to contest the suit on merits.

21. Heard Mr.R.Srinivas, Learned Senior Counsel appearing for Mr.K.Ashok Kumar, Learned Counsel for the appellant, and Mr.K.V.Babu, Learned Senior Counsel appearing for Mr.S.K.Rameshwar, Learned Counsel appearing for the first respondent.



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22. The scope of reference to the Third Judge is in the given facts and circumstances; Whether the signature found in the affidavit accompanied with the application for set aside the *exparte* order needs to be tested.

23. This Court had advantage of perusing the opinions of two Learned Judges, who had recorded own reasoning for their conclusions. The Learned Senior Judge (*Dr. Justice Anita Sumanth*) thought fit that it is a case where the disputed signature to be compared with the admitted signature and a finding to be given. Whereas, the Learned Junior Judge (*Justice C. Kumarappan*), considering the facts of the case has held that the comparison of the signature is of no consequence when the deponent admits the signature and want to establish the contents of the document which he has sworn.

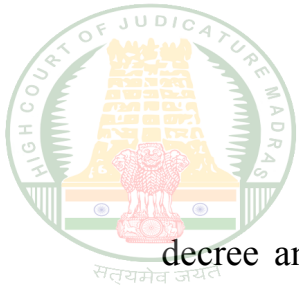
24. The prime contention of the appellant is that by forging the signature in the affidavit and Vakalatnama, to show as if the deponent was in Chennai and the application to set aside the *ex-parte* decree is filed. Thus, fraud been committed on the Court with an intention to prevent the due execution of the decree. It is contended that the respondent cannot claim a premium over his act of forgery.



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25. Referring to the judgments of the Hon'ble Supreme Court, where the Apex Court had taken strong exception to the conduct of forging the signatures in the affidavit and vakalatnama, the Learned Counsel appearing for the appellant submitted that the dictum laid down in *Afzal and another vs. State of Haryana and others* reported in (1996) 7 SCC 397 and *Perry Kansagra, in re* reported in (2023) 16 SCC 631, squarely applies to the facts of the present case.

26. Per contra, Mr.K.V.Babu, Learned Senior Counsel appearing for the 1st respondent submitted that the reasoning of the Hon'ble Supreme Court in *Sasikala Pushpa (cited supra)* squarely applies to the facts of the present case. The deponent admits the signature in the document and he gains nothing by forging his own signature. In the absence of material to show that the forgery in the affidavit will give an undue advantage to the respondent over the appellant, the issue need not be carried any further. The Learned Senior Counsel for the 1st respondent also submit that fresh affidavit sworn before the Notary Public at USA has been submitted to give quietest to the controversy raised. The attempt of the appellant to delay the disposal of the application to set aside the *exparte*



decree and to pressurise the Execution Court to proceed with the Execution Application, should be taken note by this Court and prevent miscarriage of justice.

27. To buttress his submission, the following judgments relied by the respondent herein.

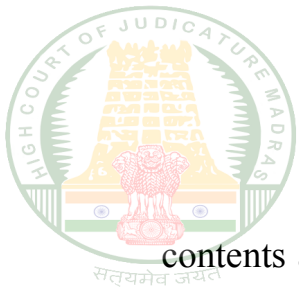
(i) *Mobarik Ali Ahmed vs. The State of Bombay* reported in *AIR 1957 SC 857*.

(ii) *Sasikala Pushpa and others vs. State of Tamil Nadu* reported in *(2019) 6 SCC 477*.

(iii) *Atlanta Infrastructure Ltd vs. Delta Marine Company* reported in *2021 (20) SCC 593*.

(iv) *K.S.Nageswara Aiyar vs.S.Ganesa Aiyar* reported in *1942 (2) MLJ 198*.

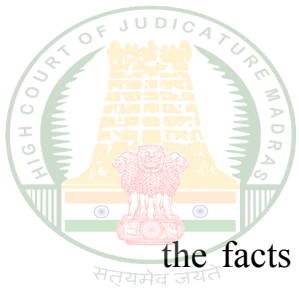
28. The core issue between the parties in the Civil Suit is whether the *ex-parte* decree obtained by the plaintiff is to be set aside for the reasons stated in the affidavit accompanied to the petition. The fact in issue is whether the contents in the affidavit is sufficient to set aside the *ex-parte* decree. The first defendant in the suit, who is the deponent of the affidavit, owns the authorship and the signature in the affidavit. When the author of the document owns its



contents and signature, whether there is any legal necessity at all to subject the signature for comparison is the point of cleavage between the two Learned Judges.

29. Unlike the facts of the case in hand, in *Afzal case* (cited supra), the deponent of the affidavit, namely, *M.S.Ahlawat* had admitted forgery. Hence, the Court had not probed whether the signature in the affidavit is forged, it had proceeded on the admission of the party that the signature was forged. We further find that, the Hon'ble Supreme Court, though initially took action for perjury under Section 193 of I.P.C and convicted M.S.Ahlawat for deliberate fabrication of records. Later, realising that the Hon'ble Supreme Court has wrongly assumed original criminal jurisdiction to proceed against the petitioner without following the procedure prescribed under Sections 195 and 340 of Cr.P.C. The Court fairly recorded that it had acted without jurisdiction and without following the procedure prescribed. It further observed that, 'to perpetuate an error is no virtue, but to correct it is a compulsion of judicial conscience'.

30. *In Re : Perry Kansagra* case [cited supra] relied by the appellant,



the facts are entirely different. In this case, the Supreme Court had taken suo motu contempt since it was found that by filing false affidavit, the custody of the minor child was taken away from the territorial jurisdiction of the Indian Courts. While exercising its *parens patriae* jurisdiction, the Hon'ble Supreme Court had initiated *suo motu* contempt proceedings against the petitioner, who obtained the order of custody of the child by suppressing the order passed by the High Court of Kenya at Nairobi. The Hon'ble Supreme Court proceeded with the contempt action after being satisfied that, the false and fraudulent representations made by *Perry Kansagra* were the foundation, on the basis of which this Court was persuaded to hand over custody of the minor child, Aditya to him. Therefore, as rightly observed by the Learned Junior Judge in this case, the alleged forgery is not the foundation of the litigation but merely an issue raised by the appellant herein on suspicion. By playing a “Red Herring” role, the appellant is trying to evade facing the allegation that the exparte decree was obtained behind the back of the respondent herein, without due service of suit summons.

31. No doubt, Sections 45 and 73 of the Indian Evidence Act, enable the Court to get opinion of an expert or to compare the handwriting by the Court



itself and arrive at an opinion about the allegation of forgery. However, the necessity to invoke these provisions will arise only when the writing is the foundation dispute in the litigation. Further, the opinion obtained from the expert or the opinion formed by comparison by the Court itself is not a conclusive proof. Therefore, whatever be the reason stated to refer a document for comparison under Section 45 or Section 73 of the Indian Evidence Act, it is the duty of the Court first to ascertain whether there is any necessity to resort such exercise and whether an opinion on the signature anyway will help the Court to decide the issue forming the foundation to the litigation.

32. In this case, the main issue is whether the appellant herein/the plaintiff in C.S.No.536 of 1999 is entitled for the *exparte* decree. The affidavit of the respondent herein/first defendant, states that the suit summons not served in the manner known to law. The authorship and signature in the affidavit is owned by the respondent. He admits the signature and had tendered apology for wrongly mentioning the place of signing as Chennai in the jurat portion.

33. On similar facts, in ***Sasikala Pushpa*** case (*cited supra*), it was contended before the Hon'ble Supreme Court that, on examination of



signatures, the handwriting experts had opined that it is not the signature of the appellant, and therefore, the intention of the appellants to create a forged document has been clearly made out. The Hon'ble Supreme Court of India, has categorically held that, "we do not find any merit in the submission as the appellants themselves admit their signatures in the vakalatnama". In the light of the statement of the appellants admitting the signatures in the vakalatnama, we do not think that the opinion of the handwriting expert would stand on any higher footings.

34. With the catena of judgments cited on either side and referred above, judgments invariable says only if the forgery alleged is foundation to the litigation action required. In most of the cases cited, the deponent had admitted forgery or admitted/found to be false and such false statement made intentionally to commit fraud on the Court. Whereas, in the case in hand, the deponent owns the signature in the affidavit and the content of the affidavit. The foundational fact in issue is not the signature in the affidavit, but the content in the affidavit. Hence, no legal necessity to test the signatures in the affidavit arise. The suspicion of the appellant about the genuineness of the signatures of the deponent, is irrelevant to decide the fact in issue. Hence, the signature



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admitted by the deponent has to be taken on its face value and the duty of the Court is to test the contents of the affidavit.

25. Hence, I concur with the view and findings of Hon'ble Justice C.Kumarappan.

26. Accordingly, the Original Side Appeals stands dismissed. In the light of the above findings, the petition in C.M.P.No.23934 of 2024 is filed to receive the opinion of the private forensic laboratory as additional document stands dismissed. There shall be no orders as to costs. Consequently, connected miscellaneous petitions are closed.

25.09.2025

Index :Yes.
Internet :Yes/No.
Neutral Citation :Yes/No.
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Dr.G.JAYACHANDRAN, J.

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Pre-delivery common judgment made in
O.S.A.Nos.131, 132 & 133 of 2024
and
C.M.P.Nos.16751, 23934, 16994 & 16744 of 2024

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