



CRP.No.5243, 5384 and 5386 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5243, 5384 & 5386 of 2025 and
CMP.Nos.26423, 27102 & 27108 of 2025

Bharathi Co-Operative Building Society Ltd.,
No.X-77, Rep. by its Secretary Perambur,
Chennai-11.

... Petitioner in all CRP's

Vs.

1.M.H.Chand Basha
2. Ghouse Basha
3. Md.Yousuf
4. The Manager
Indian Overseas Bank,
Purasawalkam Branch,
Chennai-07.

...Respondent in all CRP's

PRAYER in CRP.No.5243 of 2025:Civil Revision Petition filed Article 227 of Constitution of India, praying, to set aside the order and decretal order dated 01.09.2025 made in IA No. 13 of 2025 in OS No. 4588 of 2000 on the file of III Assistant City Civil Judge at Chennai.



PRAYER in CRP.No. 5384 of 2025:Civil Revision Petition filed Article 227 of Constitution of India, praying, to set aside the order and decreetal order dated 01.09.2025 made in I.A.No.15 of 2025 in I.A.No.5821 of 2018 in O.S.No.4588 of 2000 on the file of III Assistant City Civil Judge at Chennai.

PRAYER in CRP.No.5386 of 2025:Civil Revision Petition filed Article 227 of Constitution of India, praying, to set aside the order and decreetal order dated 01.09.2025 made in I.A.No.14 of 2025 in I.A.No.5820 of 2018 in O.S.No.4588 of 2000 on the file of III Assistant City Civil Judge at Chennai.

For Petitioner
(in all CRP's) : Mr.R.Veeramani

For Respondent : Mr.L.Gavaskar for R1
((in all CRP's))

COMMON ORDER

These Civil Revision Petitions are filed challenging the common order passed by the Court below allowing the applications filed by the 1st respondent seeking to reopen the suit, reopening IA.Nos.5820 and 5821 of 2018 and to reopen the plaintiff's side evidence.



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2. The 1st Respondent herein filed a suit in OS.No.4588 of 2000 against the Petitioner and other Respondents seeking declaration that mortgage deed dated 03.04.1998 allegedly executed by 1st Respondent in favour of the Petitioner was null and void and not binding on him. He also sought for mandatory injunction directing the defendants to deposit original title deeds relating to schedule mentioned property to the court and other incidental reliefs.

3. It was the specific case of the first respondent/plaintiff that the document mortgage deed dated 03.04.1998 allegedly executed by him in favour of petitioner herein was a forged document. He filed IA.Nos. 5820 and 5821 of 2018 seeking appointment of Advocate Commissioner to take admitted document dated 26-10-1989 for comparison with the disputed document dated 03.04.1998 to the forensic lab and for comparison of signature. Those applications were allowed by the trial court by order dated 12-12-2019. Subsequently, it was found that in the admitted document dated 26-10-1989, neither the signature nor the thumb impression of the first respondent was available and hence, it was not useful for comparison. Therefore, the petitioner



filed instant applications in IA.Nos. 13, 14 and 15 of 2025 seeking to reopen the suit, re-opening IA.Nos. 5820 and 5821 of 2018, and to re-open plaintiff's side evidence for the purpose of producing contemporaneous document for comparing the disputed document. Now, the first respondent produced registered mortgage deed dated 22-01-1999 and registered receipt dated 30.04.2003 as admitted document for the purpose of comparison. The court below, by impugned order, allowed the applications. Aggreived by the same, the petitioner has come before this court.

4. The learned counsel for the petitioner vehemently contended that the suit is of the year 2000 and written statement of the various defendants filed long back. An application for comparison was filed by the first respondent belatedly and the same was allowed. However, the document produced by the first respondent was not useful. Hence, the order passed by this court earlier for comparison could not be complied with. Now, after 6 years, the first respondent filed instant applications seeking to reopen the case for the purpose of comparing the disputed signature with the signature found in the new contemporaneous document. The very intention of the first respondent is to drag on the proceedings and the trial court, without appreciating the conduct



and attitude of the first respondent, erroneously allowed the applications and hence, the impugned order is liable to be set aside.

5. Mr.L.Gavaskar, learned counsel, who entered caveat for First Respondent, submitted that the main dispute in the suit is with regard to the plea of forgery raised by the First Respondent regarding 1998 document. Now, the First Respondent got contemporaneous document wherein his signatures are found. The trial court, in the interest of justice, allowed the applications and given opportunity to the First Respondent to prove his case and hence, the impugned order is not vitiated by any illegality or irregularity.

6. A close perusal of the pleadings of the parties would indicate that the main question to be decided in this suit is the plea of forgery raised by the First Respondent. Now he produced two documents containing his signature. In both the documents now produced by the First Respondent, he signed as one of the witnesses. Both the documents were registered documents. Therefore, the authenticity of the document cannot be decided. In such circumstances, in order to have a comprehensive adjudication, this Court feels that First Respondent shall be given an opportunity to seek comparison of the admitted contemporaneous document produced by him with the disputed document. However, though 1st defendant filed its written statement as early as 18-11-



2001, there is enormous delay on the part of the plaintiff/1st respondent in seeking comparison of disputed signature with the admitted contemporaneous document. Even while filing earlier IA's, the 1st respondent did not take proper care to verify whether his signature was found in the documents produced by him.

7. Taking into consideration the said fact, this Court feels the 1st Respondent/plaintiff shall be directed to pay cost to the Petitioner. Accordingly, the order passed by the Court below is modified by directing the 1st Respondent to deposit a sum of Rs.10,000/- (rupees ten thousand only) to to the credit of O.S.No.4588 of 2000 on the file of III Assistant City Civil Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order. If the first respondent fails to comply with the direction, the Civil Revision Petition will stand allowed and I.A.Nos.13, 14 and 15 of 2025 will get dismissed automatically. In case, the First Respondent complies with the direction by depositing a sum of Rs.10,000/- to the credit of O.S.No.4588 of 2000 on the file of III Assistant City Civil Judge at Chennai, within the above stipulated time, the Civil Revision Petition will stand dismissed and the impugned order will get confirmed. The petitioner/ 1st defendant is permitted to



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withdraw the cost to be deposited by the 1st respondent/plaintiff. No cost.

Consequently, the connected miscellaneous petitions are closed.

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Index : Yes / No

Internet : Yes / No

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To

The learned III Assistant City Civil Judge, Chennai.

S.SOUNTHAR, J.



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