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CRP No. 2137 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP No. 2137 of 2021

and

C.M.P.No.16202 of 2021

1. Muthusamy
2. Lakshmi
3. Periyasamy
4. Jayachandran

..Petitioner(s)

Vs

1. Chelladurai(Died)
2. Pushba
3. Vellaiyammal
4. Periyannan

Sole Respondent Died. Respondents 2 to 4 are brought on record as LR's of the deceased Sole Respondent Viz. Chelladurai vide court order dated.30.09.2024. made in CMP Nos.5446,5450 and 5451 of 2024 in CRP No.2137 of 2021 and CMP No.16202 of 2021.

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 23.08.2021 passed in I.A.No.1 of 2020 in OS.No.19 of 2016 by the Hon'ble Sub Court, Perambalur.



For Petitioner(s):

Mr.B.Vignesh
For Mr.S.Mohan

For Respondent(s):

Ms.Vaishnavi
(For RR2 to R4)

R1 - Died

ORDER

This Civil Revision Petition has been filed to set aside the order dated 23.08.2021 passed in I.A.No.1 of 2020 in O.S.No.19 of 2016 by the Hon'ble Sub Court, Perambalur.

2. Heard Mr.B.Vignesh, learned counsel for the petitioner and Ms.Vaishnavi, learned counsel for respondents 2 to 4.

3. The present revision has been filed, challenging an order rejecting an interlocutory application, whereupon the petitioners had sought for appointment of an Advocate Commissioner to send the document under Ex.B3, which contains the disputed signature, to be compared along with the plaint, vakalat, and the signature in the cross-examination that has been affixed by the plaintiff.

4. The application filed by the petitioners/defendants had been dismissed, holding that firstly, Ex.B3 had not been clearly stated to have been executed on a particular date, and that the signature that is sought to be verified, together



with the plaint and other documents as claimed by the petitioners, were not contemporaneous documents. The Court below had also further held that though Ex.B3 was marked on 24.09.2018, there is no reason as to why there was a delay in filing the present application, which was made only on 24.02.2020.

5. An effort has been made by the learned counsel for the petitioners to contend that the suit transaction was only executed as a collateral security for the loan transaction between the parties, for which Ex.B3, a signed receipt, evidencing payment of interest was attempted to be marked, and P.W.1 had specifically denied the execution of the said document, and hence it became necessary to compare the said signature with the admitted signature available before the Court.

6. It is the further case that a perusal of Ex.B3 would itself be sufficient to show that the same has been executed on 05.01.2016, and therefore, the Court below has erroneously come to the conclusion that the date of execution of Ex.B3 was not made known to the Court and that there was no necessity to compare the said document along with the plaint, vakalat, and the cross-examination. Therefore, the plaint and the vakalat filed in the suit are contemporaneous documents relating to Ex.B3. He would further submit that the Court cannot apply the principles of non-verifying the disputed signature with the Court records by applying a straitjacket formula not to compare it with



the Court records, as in the present case, Ex.B3 is a contemporaneous document considering the dates of execution of Ex.B3, plaint, and the vakalat. Therefore, he seeks indulgence of this Court.

7. Countering his arguments, the learned counsel for the respondents 2 to 4 would submit that the petitioners are attempting to put up a new case by contending that the plaintiff had executed Ex.B3 on 05.01.2016. She would submit that even in the written statement, no such date had been given under the list of documents. The documents appended to the written statement also do not disclose the date of Ex.B3, which was marked through the cross-examination of P.W.1.

8. She would further submit that in the written statement, an admission of fact had been made that the plaintiff had issued a notice, which was received by the petitioners, for which a reply had also been given. She would further submit that even in the affidavit filed in support of the application, the date of Ex.B3 has not been given, and only for such reason, the Court had come to a conclusion that Ex.B3 is undated. She would further submit that a perusal of Ex.B3 do not indicate the date on which it was executed, and therefore, there was no error in the order of the Court below. Hence, she prays this Court to dismiss the revision petition.



9. I have considered the submissions made by the learned counsel appearing on either side and perused the materials placed on record.

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10. A perusal of Ex.B3 that was produced before the Court do not indicate any date on which it was executed, as claimed by the petitioners. When the execution of the document has been specifically denied by its executant, it is for the petitioners to substantiate the same by leading in evidence appropriately. As rightly pointed out by the Court below, the same cannot be tested on the strength of the signature of the party found in the Court proceedings, that too particularly when the affixation of the signature in the Exhibit has not been proved, it cannot be contended that the same is a contemporaneous document for comparison.

11. In such an event, this Court do not find any merit in this Civil Revision Petition and accordingly, this Civil Revision Petition fails and stands dismissed. Considering the fact that the suit had been instituted earlier in the year 2016, there shall be a direction to the Sub Court, Perambalur, to dispose of the suit within a period of six (6) months from the date of receipt of a copy of this order.



12. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

The Sub Court, Perambalur.



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K.KUMARESH BABU, J.

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