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CRP No. 3592 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP No. 3592 of 2022

and

C.M.P.No.19065 of 2022

N. Devaraj

..Petitioner(s)

Vs

1.V. Ranganathan (Deceased)

2.Mrs.R.Jeyalakshmi

3.Mrs.R.Sridevi

4.Mr.R.Srishar

(R1 – Died, Respondents 2 to 4 were brought on record as LR's of the deceased first respondent vide order of this Court dated 01.04.2026 made in CMP.Nos.1472, 1477 & 1474 of 2026 in C.R.P.No.3592 of 2022)

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order passed by the Learned Judge of the XVI Additional City Civil Court, Chennai dated 02.09.2022 in I.A.No.2 of 2022 in O.S.No.5776 of 2019 filed by the petitioner under Order XXVI Rule 10A of CPC R/W Section 45 of the Evidence Act.

For Petitioner(s):

Ms.K.Subhashine

For M/s.Chennai Law Associates

For Respondent(s):

R1 – Died

For R2 to R4 – Mr.M.Venkatakrishnan



ORDER

The present Civil Revision Petition has been filed to set aside the order passed by the Learned Judge of the XVI Additional City Civil Court, Chennai dated 02.09.2022 in I.A.No.2 of 2022 in O.S.No.5776 of 2019 filed by the petitioner under order XXVI Rule 10A of CPC R/W Section 45 of the Evidence Act

2. Heard Ms.K.Subhashine, learned counsel for the petitioner and Mr.M.Venkatakrishnan, learned counsel, takes notice for respondents 2 to 4.

3. The learned counsel for the petitioner would submit that the petitioner had instituted a suit against the 1st respondent on the strength of an undertaking of debt that had been executed by him. The said undertaking of debt was denied by the executant by claiming it to be a fabricated document. Hence, he had taken out an application to send the said document to be sent for expert analysis by the Forensic Department. She would submit that the said application was dismissed by holding that there is no specific denial of the alleged undertaking of debt or denial of signature. The Court had also erroneously held that by the express provision of Section 73 of the Indian Evidence Act, the Court itself is empowered to compare a signature and as the trial had already begun, it was not necessary to send the document for an expert opinion. She would submit that



the findings are contrary to the written statement filed by the respondent, wherein he had specifically denied the execution of the said agreement. Hence, she seeks the indulgence of this Court.

4. Countering his arguments, Mr.M.Venkatakrishnan, learned counsel appearing for the proposed respondents, who had been impleaded as legal heirs of the deceased first respondent/defendant, would submit that the suit itself is a malicious prosecution and would submit that the said undertaking is dated 23.05.2019 and even in a complaint that had been given to the police, a reference had been made to such an undertaking by the petitioner. In that context, it is for the petitioner to substantiate that there has been execution of such document by the deceased first defendant.

5. That apart, he would submit that when the written statement was filed as early as in the year 2019, no reasons have been attributed by the petitioner. who is the plaintiff, either by filing a reply statement to the written statement nor has he taken any steps immediately to send the document for an expert opinion. He would submit that after the case was taken up for trial, only to prolong the litigation, an attempt is being made to send the said document for forensic evaluation, and therefore he would submit that there is no merit in the application and the same has also been rightly rejected by the Court below. Hence, he seeks dismissal of the revision petition.



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

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7. In a suit for recovery of money based on an Undertaking of Debt, which has been contested by the deceased defendant, no reply statement, disputing such averments in the written statement had been filed. The plaintiff herein has allowed the trial to begin and after leading evidence, had attempted to send the disputed document for forensic examination. It is for the petitioner/plaintiff to substantiate the execution of such document and seek relief by appropriate evidence. Once such contention is substantiated that the document had been executed, it is for the defendants to disprove the same in the manner known to law.

8. Without leading in any evidence to substantiate the execution of the said Undertaking of Debt, the petitioner/plaintiff had attempted to send the same for forensic examination, which according to this Court is an attempt made only to protract the proceedings. If the petitioner is able to establish by appropriate evidence that such document had been executed, the onus would shift upon the defendants to substantiate that the said document had not been executed by the author. Hence, at this stage, this Court is of the view that the present application filed by the petitioner would not be maintainable.



9. For the aforesaid reasons, this Court do not find any infirmity in the order impugned in this revision petition and accordingly, the revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

01-04-2026
(2/2)

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

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To

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



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K.KUMARESH BABU, J.

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