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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2026

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

CRP No. 6836 of 2026
and CMP No.29387 of 206

CNR:{HCMA012530832026}

A.Marimuthu

Petitioner(s)

Vs

V.Rajalakshmi

Respondent(s)

PRAYER

Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 03-07-2026 passed in I.A.No.02/2025 in O.S.No.386/2020 on the file of the Learned Subordinate Court, Pollachi.

For Petitioner(s): Mr. V.Anandhamoorthy

ORDER

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This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal order passed in in I.A.No.02/2025 in O.S.No.386/2020, dated 03-07-2026, on the file of the Subordinate Court, Pollachi, wherein the application filed by the petitioner/defendant to send the disputed promissory note (Ex.A-1) came to be dismissed by the Court below.

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2.The respondent/plaintiff filed a suit in OS.No.386 of 2020, seeking for the relief of recovery of money based on a promissory note. Right from the beginning, the petitioner/defendant has been denying the signature found in the promissory note and has taken a stand that the promissory note is a forged document.

3.In order to establish the ground taken by the petitioner/defendant, application was filed in IA.No.2 of 2025, to send the disputed document for expert opinion. This application has been dismissed by the Court below by stating that the Court below has looked into the signature in the admitted document and the disputed document and found the same to be similar and therefore there is no need to send the document for expert opinion. Aggrieved by the said order, the present CRP has been filed before this Court.

4.The issue that is involved in the present case was dealt with by the Apex Court in *Gopal Pathak v. Nitin Alias Pappu & Anr, in Civil Appeal No(s). 13004/2026 dated 18.9.2026* and the relevant portions are extracted hereunder:

> *8. We have heard the parties at length. The short point involved is whether it would be 'essential', as has been held by the High Court, to send the document to obtain expert opinion under Section 39 of the Bharatiya Sakshya Adhiniyam, 2023 for determining the genuineness of the Will or whether the same can be ascertained by comparison in accordance with Section 72 of Bharatiya Sakshya Adhiniyam, 2023, which is reproduced*

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herein below: 72. Comparison of signature, writing or seal with others admitted or proved.

(1) In order to ascertain whether a signature, writing or seal is that of the person by whom it purports to have been written or made, any signature, writing, or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing or seal has not been produced or proved for any other purpose.

(2)The Court may direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written by such person.

(3)This section applies also, with any necessary modifications, to finger impressions.

9. Having considered the matter, we find that the impugned order cannot be sustained.

10. This Court is of the view that the law gives discretion to the Court concerned to form an opinion as to whether it would itself compare the signatures on its own or seek an expert opinion.

11. This Court is further of the view that it is the duty of the Court to compare the signature or writing and come to its own conclusion and the same cannot be avoided by recourse to a statement that the Court is not an expert. In fact, the evidence of an expert is only an opinion which is not binding on the Court. Consequently, the finding of the High Court that obtaining expert opinion under Section 39 of the Bhartiya Sakshya Adhiniyam, 2023 is essential for determining the genuineness of the Will is untenable in law. However, the Court has full discretion to seek expert opinion like where it has any

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doubt or the writing/impression is smudgy, vague or very light.

12. Furthermore, what was disputed and compared in Thiruvengada Pillai v. Navaneethammal & Anr. (2008) 4 SCC 530, was a finger impression and not a handwriting or signature. This Court is therefore of the view that the observation of this Court at paragraph no. 16 of judgment in Thiruvengada Pillai v. Navaneethammal & Anr. (2008) 4 SCC 530 cannot be read to mean that it is essential to examine an expert witness in all cases which involve a disputed handwriting/signature/finger impression.

5.In the above judgment, the Apex Court by relying upon the earlier judgment in ***Thiruvengada Pillai v. Navaneethammal & Anr. (2008) 4 SCC 530*** has held that the Court has to first form an opinion as to whether it would itself compare the signatures or seek for an expert opinion. If the Court wants to compare the signature, the Court has to assign reasons as to why it reached a particular conclusion. If the Court is not able to form an opinion, the disputed document along with the admitted document can be sent for expert opinion.

6.In the case in hand, the Court has chosen to compare the signature in the admitted document and the disputed document and there is absolutely no reason as to why the Court came to a conclusion that both the signatures are the same.

7.The relevant documents were placed before this Court and this Court is not able to find apparent similarity of the signature in the disputed document and the admitted document.

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8.In view of the above, the order passed by the Court below is set aside and the matter is remitted back to the Court below. The Court below is directed to deal with the application strictly in line with the judgment of the Apex Court in *Gopal Pathak* case referred supra, whatever decision is arrived at by the Court must be supported by reasons. Such order shall be passed after an opportunity is afforded to both sides within a period of four weeks from the date of receipt of copy of the order.

9.In the result, this Civil Revision Petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

29-10-2026

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

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To

Subordinate Court, Pollachi.

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N.ANAND VENKATESH J.

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