

**IN THE COURT OF CIVIL JUDGE (SENIOR DIVISION), PERUMBAVOOR**

Present : Smt.Annie Varghese, Civil Judge (Senior Division)

Saturday, the 21<sup>st</sup> day of December 2024/30<sup>th</sup> Agrahayana 1946

**I.A. No. 8/2024 in O.S. No. 53/2019**

**Plaintiff :-**

A.A.Hanifa aged 52 years, S/o A.M.Aliyar, Imanakudi House, Pattimattom Village, Pattimattom Kara, Kunnathunadu (T), Ernakulam District.

By Advs. K.A.Shemeer & Raji M.Balakrishnan

**Respondent :-**

Nassarsha aged 53 years, S/o Muhammad Koya, Aneesa Manzhil, Kalluvathukkal P.O, Kalluvathukkal Kara, Kollam District.

By Adv. B.Tony

This petition is filed under Section 45 of Evidence Act and Section 151 of the C.P.C to pass an order to send the cheque No. 288518 of SBI, Parappally branch to Forensic Science Laboratory, Thiruvananthapuram for verification of the defendant's handwriting put on the face of the cheque. The petition is coming on for hearing on 21.12.2024 in the presence of the above counsel and the court on the same day passed the following :-

**ORDER**

This is a petition filed by the defendant under Section 45 of Evidence Act and S.151 of CPC to send the cheque bearing No.288518 of SBI Parippilly Branch involved in this case to FSL for examination of the handwriting in the cheque.

2. The petitioner's case is that the respondent/plaintiff had averred in the plaint that the petitioner had executed and issued the cheque by writing the name of the respondent, the amount and date in the cheque at respondent's office at Pattimattom, but he had only signed a blank cheque bearing no.288518 and had not entered the name, amount and date in the cheque. The petitioner is not disputing the signature in the cheque.

3. Objection was filed by the respondent contending that it is not stated in the plaint that the name, amount and date in the cheque are in the handwriting of the petitioner and that what is stated in the plaint is that the petitioner had signed and executed a cheque in which the name, amount and date were written.

4. Heard both sides.

5. On a perusal of the plaint, it is seen that the contention is raised with respect to the following in paragraph 7 of the plaint: "തുടർന്ന് രണ്ട് മാസത്തിനുശേഷം ടി സംഖ്യ പ്രതി വാദിക്ക് തിരികെ നൽകിയിട്ടില്ലാത്തതും, തുടർന്ന് വാദി പലകുറി ടി സംഖ്യ ആവശ്യപ്പെട്ടപ്പോൾ മേൽപ്പറഞ്ഞ പത്ത് ലക്ഷം രൂപയ്ക്ക് പ്രതി, പ്രതിക്ക് അക്കൗണ്ടുള്ള സ്റ്റേറ്റ് ബാങ്ക് ഓഫ് ഇന്ത്യ, പാരിപ്പള്ളി ശാഖയുടെ 288518-ആം നമ്പർ ചെക്കിൽ, പേരും, തുകയും, തീയതിയും എഴുതി, പ്രതി ഒപ്പിട്ട് എക്സിക്യൂട്ട് ചെയ്ത് വാദിക്ക് 01-10-2019 തീയതി വച്ച് വാദിയുടെ പട്ടിമറ്റത്തുള്ള ഓഫീസിൽ വച്ച് നൽകിയിട്ടുള്ളതാണ്".

6. It is seen specifically stated in paragraph 7 of the plaint that the petitioner had signed and executed the cheque but it is not specifically stated therein as to who had written the name, amount and details in the cheque. The respondent has contended in the objection that he had not stated in the plaint that the name, amount and date in the cheque are in the handwriting of the petitioner.

Since the respondent has no case that the name, amount and date in the cheque were written by the petitioner, it is not necessary to examine the handwriting in the cheque. Hence, the petition is dismissed.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open court on this the 21<sup>st</sup> day of December, 2024.

Sd/-  
Annie Varghese  
Civil Judge (Senior Division)

Appendix : Nil

Sd/-  
Civil Judge (Senior Division)

stn                      Compd by. sks

I.A.8/2024  
in O.S.53/2019  
Order  
Dtd. 21.12.2024