

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

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

Wednesday, the 20<sup>th</sup> day of November 2024/29<sup>th</sup> Karthika 1946

**I.A.No. 2/2024 in O.S. No. 53/2022**

**Petitioners/Defendants :-**

1. M/s. Medicare Surgicals, VII/499 CKM Towers, Near Civil Station, Perumbavoor.
2. Asha Devi, D/o Vijayadevi, Nedumbilly House, Kodanad Kara, Kodanad Village, Kunnathunad Taluk.

By Adv. G.Santhosh Kumar

**Respondent/Plaintiff :-**

Shaju, S/o Paulose, Kalarickal House, Karattupally Kara, Perumbavoor Village, Kunnathunad Taluk.

By Advs. N.C.Mohanan, M.R.Santhoshkumar & Arun K

This petition is filed under Section 39 of Bharatiya Sakshya Adhinyam (Section 45 of Indian Evidence Act) and Section 151 of the Civil Procedure Code to pass an order to send the cheque and specimen handwriting of 2<sup>nd</sup> defendant to Forensic Lab, Thiruvananthapuram to compare with handwriting in the 1<sup>st</sup> document produced by the plaintiff and to obtain a report thereon, for the reasons stated in the affidavit. The petition is coming on for hearing on 20.11.2024 in the presence of the above counsel and the court on the same day passed the following :-

**ORDER**

The petition is filed by the defendants in the suit to send the cheque involved in this case to FSL for examination of the handwriting in the cheque. The petitioners' case is that the respondent/plaintiff had averred in the plaint that the 2<sup>nd</sup> petitioner had written the contents in the cheque and signed the cheque and handed over the cheque at respondent's house at Perumbavoor. However, the petitioners contend that the contents in

the cheque are not in the handwriting of the 2<sup>nd</sup> petitioner. The petitioners are not disputing the signature in the cheque. Objection was filed by the respondent contending that it is not stated in the plaint that the handwriting in the cheque was that of the 2<sup>nd</sup> petitioner and that the respondent has no such case.

Both sides were heard. On a perusal of the plaint, it is seen that the contention is raised with respect to the following portion in the plaint in Para 5 : “രണ്ടാം പ്രതി വാദിയിൽ നിന്നും 44,00,000/- രൂപ കൈപ്പറ്റിയ ശേഷം വാദിയെ ടിയാൾ നടത്തി വന്നിരുന്ന സ്ഥാപനത്തിൽ ബിസിനസ്സ് പങ്കാളിയാക്കും എന്ന ഉറപ്പു പാലിക്കാത്തതിൽ വെച്ച് വാദി രണ്ടാം പ്രതി കൈപ്പറ്റിയ തുക തിരികെ ആവശ്യപ്പെട്ടപ്പോൾ ടി തുക തിരികെ നൽകുന്നതിലേക്കായി ടിയാൾ മാനേജിംഗ് പാർട്ട്ണർ ആയി നടത്തി വന്നിരുന്ന ഒന്നാം പ്രതി സ്ഥാപനത്തിന്റെ ഐ.ഡി.ബി.ഐ ബാങ്ക് പെരുമ്പാവൂർ ശാഖയിലെ 0334102000007238-ാം നമ്പർ അക്കൗണ്ടിലെ 365787-ാം നമ്പർ ചെക്ക് ടി തുകയ്ക്ക് 17.10.2022 തീയതി വെച്ച് എഴുതി ഒപ്പിട്ട് വാദിയുടെ പെരുമ്പാവൂരിലുള്ള വസതിയിൽ വെച്ച് നൽകിയിട്ടുള്ളതാണ്”. The same could be interpreted to mean that the cheque was written by 2<sup>nd</sup> petitioner but at the same time it could also be interpreted to mean that a written and signed cheque dated 17.10.2022 was handed over without specifying the author of the contents therein. However, the respondent has clearly stated in the objection that he has not stated in the plaint that the handwriting in the cheque is that of 2<sup>nd</sup> petitioner.

In such circumstance, it is not necessary to forward the cheque for scientific examination. Hence, the petition is dismissed.

Pronounced in the Open Court on this the 20<sup>th</sup> day of November, 2024.

Annie Varghese  
Civil Judge (Senior Division)

**Appendix : Nil**

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Compd by. at

Civil Judge (Senior Division)

Order in  
I.A.2/2024  
in O.S.53/2022  
Dtd. 20.11.2024