

IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION),MUVATTUPUZHA

Present:- Sri. Atheek Rahman, Civil Judge (Senior Division)

Tuesday, the 28th day of January, 2025 / 8th Magha 1946

I.A.No. 6/2025 in O.S No.63/2019

Petitioner/Defendant:-

Jacob V John aged 52 S/o John, Veliyammariyil House,
Mulakkulam, Vadakkekara, Piravom Village,
Muvattupuzha Taluk.

By Adv. Gigi Peter.

Respondent/Plaintiff:-

Jose, aged 66, S/o Jacob, Veliyammariyl House,
Mulakkulam, Vadakkekara, Piravom Village,
Muvattupuzha Taluk.

By Advs. N Ramesh & Raju P V

This petition is filed under Section 151 of Civil Procedure Code 1908 and is coming on for hearing on 28.01.2025 in the presence of the above counsels and the Court on the same day passed the following:-

ORDER

This petition is filed by the petitioner/defendant under Section 151 of the Code of Civil Procedure, 1908 to remit the FSL report and obtain report as per order in IA 1/2022, in the interest of justice. The petition is supported by an affidavit sworn by the petitioner. In the affidavit it is contended that as per order in IA 1/2022 the signature in the agreement dated 04.08.2016 as well as the overwriting and correction in the questioned

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cheque No.427824 sent for an expert opinion from Forensic Science Laboratory, Thiruvananthapuram. The report was received on 26.11.2024. The petitioner submitted that there was an oversight in the requisition form as the matter to be ascertained was the amount mentioned, both numerical and in words in the cheque No.427824 of Canara bank, Arakuzha branch. The said cheque was the second document filed by the plaintiff along with the plaint, but the amount and date mentioned in the cheque is entirely different from that of the actual cheque which was issued by the defendant to the plaintiff. The cheque produced by the plaintiff is a forged document as the amount is modified from Ten lakh to Seventy lakh both numerically and in words. That apart, the date is corrected to 30.06.2019 where the actual date was 30.10.2014. Hence, it is highly essential to remit back the FSL report.

2. The respondent filed objection stating that the petition is not maintainable either in law or on facts. On the request of the petitioner the expert opinion was called for. The entire query was answered by the expert in the report. Since the said report is against the petitioner/defendant, he filed the present petition with ill motive to overcome the same. Even if there is material alteration it will not affect the evidential value of the cheque.

3. Both sides were heard.

4. The contention of the petitioner is that the prayer in the IA 1/2022 was to send agreement and cheque to FSL Thiruvananthapuram regarding the authored signatures appeared in the agreement as the signature of the defendant and for report regarding correction made in cheque No.427824, dated 30.06.2019 produced as the 2nd document along with the plaint. Though the prayer was allowed it was omitted to include the request regarding an opinion with respect to the corrections made in the cheque.

5. The main challenge raised by the respondent is that all the queries and requisition form has been answered by the expert and report received. Even if, there is alteration in the cheque it will not affect its evidential value.

6. I have perused the records and questioned cheque. From the cheque it can be seen that there is alteration in the date and in the amount written in words. These corrections are palpable and in order to ascertain the fact that there is correction and over writing, an expert opinion is not necessary. So the question to be decided is to make the

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corrections in the questioned document. It can only be decided after trial.

To deciding the said fact, an opinion of the expert is not necessary. Hence,

I am of the view that the petition is liable to be dismissed.

In the result, the petition is dismissed. No costs.

Dictated to the Confdl.Asst.,typed by her directly into the computer, corrected by me and pronounced in the Open Court on this the 28th day of January 2025.

Sd/-
ATHEEK RAHMAN
CIVIL JUDGE(SENIOR DIVISION)

APPENDIX :- Nil

Typed by : Ss/-
Compd by : Sph /-

Sd/-
CIVIL JUDGE(SENIOR DIVISION)

// True Copy //

(By Order)

Sheristadar

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Copy of Order

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Dated: 28.01.2025