

IN THE COURT OF THE SUBORDINATE JUDGE OF VATAKARA.

Present: Sri. Joji Thomas, Sub Judge.

Friday, the 9th day of January, 2026.

IA 10/2025 in ORIGINAL SUIT No. 83/2022

Between:

1. Souda,
W/o. Ahamed, 52 years old,
Kolai House, Chorode East Post,
Chorode Village, Chorode Desam,
Vadakara Taluk, Kozhikode District.
2. Sajeer,
S/o. Ahamed, 39 years old,
Kolai House, Chorode East Post,
Chorode Village, Chorode Desam,
Vadakara Taluk, Kozhikode District.
3. Jabir,
S/o. Ahamed, 33 years old,
Kolai House, Chorode East Post,
Chorode Village, Chorode Desam,
Vadakara Taluk, Kozhikode District.
4. Afsath,
D/o. Ahamed, 32 years old,
Kolai House, Chorode East Post,
Chorode Village, Chorode Desam,
Vadakara Taluk, Kozhikode District.
5. Muhsina,
D/o. Ahamed, 29 years old,
Kolai House, Chorode East Post,
Chorode Village, Chorode Desam,
Vadakara Taluk, Kozhikode District.

Petitioners/
Defendants

And:

Shekir.K, S/o. Kunjammad, 35 years old, Naduviladuth House, Post Puthur, Nadakkuthazha Village, Arakkilad Desam, Vadakara Taluk, Kozhikode District.	}	Respondent/ Plaintiff
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This Petition coming on the 5th day of January, 2026 for final hearing before me in the presence of Sri. O.T Jabish, Advocate for Petitioners No. 1,2,4 & 5 and Smt. Namitha Manoharan and Sri.O.T. Jabish, Advocates for Petitioner No. 3 and of Sri. N.K. Viswanathan and Sri. K.R. Jesjith, Advocates for Respondent/Plaintiff and having stood over to this day for consideration, the Court passed the following:

ORDER

This application is filed under Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') The petitioners, who are the defendants in the suit, seek an expert report to compare the signature of the second defendant with the signature appearing in Ext.B1, in order to establish that the signature therein does not belong to him. The suit was scheduled for the defendants' evidence on 12.12.2025. The plaintiff filed a proof affidavit alleging that the second defendant withdrew ₹.4,24,000/- via cheque No. 028917 (dated 18.01.2023) from the South Indian Bank, Vatakara Branch, a claim which is inconsistent with the original pleadings. The second defendant denies withdrawing any such amount. Upon the petitioners' application, DW1 (the Branch

Manager of South Indian Bank, Vatakara) was examined and deposed that one "Sajeer" withdrew the said amount from the plaintiff's account (No. 0038053000020781). While the cheque and the relevant statement of account (from 01.01.2022 to 31.12.2023) were produced and marked as evidence, the witness could not produce documents to verify the identity of the said Sajeer. However, it has been established in evidence that the signature of this "Sajeer" is available in Ext.B2. To demonstrate that the individual referred to as Sajeer is not the second defendant, it is necessary to prove that the signature in Ext.B2 is not that of the second defendant. Consequently, the petitioners request that the specimen and admitted signatures of the second defendant be compared by a forensic expert with the signature in Ext.B2, and that a formal report be called for by this Court. Hence, this application.

2. The notice of this application was served on the respondent. However, no counter affidavit is filed.

3. Heard both sides. Perused the records.

4. Going by the plaint, the plaintiff has pleaded that he was ready to pay Rs.4,24,000/- which the defendant has not encashed though cheque for the said amount was given. However, in affidavit in lieu of examination in chief, plaintiff claimed that he was aware of encashment

of the said cheque by the second accused on 18.01.2023 through SMS. Significantly, even in Ext.A2 dated 02.07.2022, issuance of the said cheque is mentioned. It is to be noted that present suit was filed on 13.12.2022 and defendants have entered appearance 19.01.2023. Hence, the said cheque is encashed after filing of the suit. In fact, the said Cheque is issued in favour of second defendant. DW1 is the Manager of South Indian Bank, Vatakara Branch through whom the said cheque was marked as Ext.B2. The evidence of DW1 would show that the amount covered by cheque No.01028917(Ext.B2) was withdrawn and as it is a bearer cheque, no documents will be available with respect to the identity of the person who has encashed it. Going by Ext.B2, it is seen encashed by Sajeer, from the name and signature available on the back side of Ext.B2. The signature of plaintiff is also available on the reverse of Ext.B2. Evidently, Ext.B2 is issued in favour of Sajeer. In other words, payee in Ext.B2 is Sajeer. The defendants have a case that signature purported to be of Sajeer (second defendant) on the back side of Ext.B2 does not belonged to him. Evidently, original of Ext.B2 is not before the Court. In such circumstances, a comparison of signature is not possible. Moreover, the present suit stands posted for defendants' evidence. However none of the defendants have mounted the box. The second defendant who denied the signature in Ext.B2 has also not mount the box to deny the said fact.

Having regarding to these facts, there is no point in allowing this application at the fag end of this trial. Hence, this application is liable to be dismissed.

In the result, this application is dismissed with costs.

(Dictated to C.A, typed by her, corrected and pronounced by me in Open Court, on this the 9th day of January, 2026)

Sd/-
SUB-JUDGE,
VATAKARA

Witness and Exhibits marked on either side: NIL

Sd/-
SUB-JUDGE,
VATAKARA

Fair/Copy of Order
in IA 10/25 in OS.83/22,
Dated: 09/1/2026