

**IN THE COURT OF SUBORDINATE JUDGE,
MADURANTAKAM.**

**Present: Mr. T. GANESH, B.A., B.L.,
Subordinate Judge,
Madurantakam.**

**Friday, this 08th day of August 2025
E.A.No. 2/2025
in
E.P No. 19/2023
in
O.S No. 10/2010
(CNR.No.TNCG13 – 000283-2023)**

Vengatachalapathy

...Petitioner/Judgment Debtor/Defendant

..Vs..

Ramakrishnan

...Respondents / Decree Holder/Petitioner

This petition coming up for final hearing on 24.07.2025 in the presence of Mr.B.Rajesh, Counsel for petitioner/judgment debtor and M/s.K.Ayyasamy and S.Jothi, counsel for respondent/decree holder and having heard the arguments on both sides and having perused the records, having stood over for the consideration of this court till date, this court delivered the following;

ORDER

The petitioner has filed this petition Under Order VIII Rule (3-a) of the Civil Procedure Code to receive the document described in the petition schedule as the documentary evidence.

2. Petition in brief:

Petitioner is judgment debtor, where he filed the application in E.A. No. 1 of 2024 to set aside exparte order which passed in the main execution petition in E.P. No. 19 / 2023 as against petitioner. While so as per contentions of the affidavit and to prove that the document described in the petition schedule is highly essential to petitioner. Hence the petitioner files this petition for receive the document described in the petition schedule as the documentary evidence on the side of the petitioner/petitioner/judgment debtor/defendant.

3. Counter of respondent in brief:

The respondent denies all the above said averments set out in affidavit. The perusal of the affidavit and petition filed by the petitioner/Judgment Debtor will not disclose about the alleged part payments mentioned in the counter. Moreover, the perusal of the affidavit will amply prove that there is nothing mentioned about the alleged part payments. No bonafide and proper reason given in the affidavit petition for what purpose the note book is produced. Even in the affidavit nothing mentioned about the note book. In the petition it is simply mentioned as Note book.

Petitioner/Judgment Debtor had not paid any amount to the Respondent/Decree Holder. Alleged payments are not true and the petitioner/Judgment Debtor have illegally invented the alleged part payments and the alleged signatures in the note book are not the signatures of this respondent/Decree Holder. The petitioner/Judgment Debtor have forged the signatures of this respondent/ Decree Holder and have filed the same before this court with an intention to evade the E.P. amount to this respondent/Decree Holder. This court goes through and verify the alleged signatures in the note book, this court can come to a conclusion that the alleged signatures are forged and the petitioner/ Judgment Debtor played fraud on this court.

Even in the original suit the petitioner/Judgment Debtor filed his written statement by stating that he has not receive Rs. 2,00,000/- from the Respondent/

Decree Holder and he received only Rs. 1,00,000/- and executed two promissory note each for Rs. 1,00,000/- and gave one promissory note to this respondent/ Decree Holder and detained another promissory note for Rs. 1,00,000/- with him also he pleaded that he has paid Rs. 47,000/- to the Respondent/ Decree Holder towards interest and during pendency of the suit he has paid Rs. 70,000/- to the Respondent/Decree Holder. The above said contention of the petitioner/Judgment Debtor in the suit were not believed by this court and decree the suit as prayed with cost. From this it is very clear that the petitioner/Judgment Debtor is in habit of giving false evidence before this court. Therefore the alleged document of note book is no way connected to this case and the same is forged one the same cannot be received in evidence. Only with an intention to evade E.P. amount to this Respondent/Decree Holder the petitioner/Judgment Debtor has created and forged part payment in the said note book and produced the same before this court. Petitioner/Judgment Debtor have not mentioned anything about the alleged note book in E.A. No. 1/2024 i.e, petition to set-a-side exparte order filed by him. Absolutely there is no merits in the petition. Hence this petition is liable to be dismissed with cost.

5. No oral or documentary evidence adduced by both sides.
6. Heard both sides and perused the records.

7. Point:

“Whether this application can be allowed?”

This petition is filed by the petitioner/Judgment Debtor under Order VIII Rule 3-A of the Code of Civil Procedure seeking to receive the document described in the petition schedule, namely a notebook, as documentary evidence on his side.

The petitioner contends that the document is vital and necessary to substantiate the plea of part payments allegedly made to the Decree Holder, and that the said

document would assist the Court in arriving at a just conclusion in the pending execution proceedings. Hence this petition.

The respondent/Decree Holder, on the other hand, has vehemently opposed the petition as such the document in question is forged and fabricated.

On careful perusal of the records, this Court finds that the question before it at this stage is not whether the document is genuine or acceptable as evidence, but whether it can be received as a document for the purpose of adjudicating the pending application. It is well-settled that a party seeking to rely on a document, even at a later stage of proceedings, must be given an opportunity to produce it, provided the document is relevant and material to the issue under consideration.

In the present case, while the respondent has raised serious objections as to the authenticity of the notebook and alleged that it has been forged, such objections pertain to the evidentiary value and probative force of the document issues which must be decided at the time of full enquiry, based on proper evidence and cross-examination, if warranted. At this stage, rejecting the document merely on the ground of delayed production or allegations of forgery without affording an opportunity for its testing would amount to prejudging the matter.

However, this Court is conscious of the fact that any document sought to be introduced must also be accompanied by sufficient explanation as to its relevance. While the petitioner's affidavit could have been more specific regarding the contents and purpose of the notebook, the reference to the need for documentary evidence to support part payment cannot be brushed aside entirely.

Therefore, in the interest of justice and to afford an opportunity for fair adjudication, this Court is inclined to permit the petitioner to file the said document, subject to the right of the respondent to raise all objections regarding its admissibility, relevance, and genuineness at the appropriate stage. Accordingly, the petition is liable

to be allowed to the limited extent of receiving the document into the record, without expressing any opinion on its authenticity or evidentiary value at this stage. Hence this point is decided accordingly.

8. Result:

In fine this application is allowed. No costs.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 08th day of August 2025.

Subordinate Judge,
Madurantakam.

Both sides Evidence and Exhibits: Nil

Subordinate Judge,
Madurantakam.

**Fair / Draft order
E.A No. 2/2025
in
E.P No. 19/2023
D.D: 08.08.2025,
Subcourt,
Madurantakam**