

IN THE II ADDITIONAL CITY CIVIL COURT, CHENNAI

Present: Tmt.K. Geetha Rani, M.A., M.L.,
III Additional Judge
(FAC) II Additional City Civil Court, Chennai
Friday, the 26th day of September 2025

I.A.No. 2 of 2025

in

O.S.No. 4093 of 2019

1.N.Balajivenkat, S/o. Late Mr. R.Natarajan, 'Shilpa' First Floor, 36/150, Santhome High Road, Mylapore, Chennai-600 004.

2.Cap. P.B.Narayanan, S/o. A.N. Nayar, 3rd Floor, No.85/14, Srirangam Avenue, Pantheon Road, Egmore, Chennai-600 008.Petitioners/Plaintiffs

Vs.

1.O.S.Sundaravadivelu, Plot No. 66, Old No. 13, Collectorate Colony Main Road, Aminjakarai, Chennai-600 029.

Also 1 D Indra Enclave, No. 52, Narasimman Street, Aminjakarai, Chennai.

2.A.Shivakumar, S/o. Arumugam, Kilapuk, Chennai-600 010.

3.S.Gunasekaran, S/o. S.K.Satchidanandam, No.12, Old No. 18/2, West College Road, Arumbakkam, Chennai-600 106.Respondents/Defendants

This petition having come up on 08.09.2025 for final hearing before me in the presence of M/s.Dr.P.Vasudevan and D.Sairamkumar, Counsels for petitioners/Plaintiffs, and M/s.O.Padmaprakash, G.Mohanm and O.Ashwini Prakash, Counsel for 1st respondent/defendant and the respondents 2 and 3/defendants 2 and 3 were already set exparte and upon perusing the petition and other connected records

and after hearing arguments of both side having stood over for consideration till this day, this court delivered the following:

ORDER

This petition is filed by the petitioner under Order XVI Rule 6 to issue subpoena to the bank personnel who has signed the letter namely Ex.B4 filed by the defendant.

2. The averments in the affidavit filed in support of the petition in short as follows:

The petitioner stated that he is the 1st plaintiff in the above matter and well acquainted with the facts of the case. The above suit which is currently is under the stage of arguments, the petitioner's counsel while going through the document No.B2 marked by the defendant has noticed that the statement of accounts dated 11.03.2024 by Canara Bank Aminjikarai Branch No.16021 appears to be totally unclear and vague. It is submitted that even the disputed cheque No. 967319 raised by the plaintiffs in the above suit does not appear in the bank statement and one more payment reflected in the sale deed cheque No. 967318 for Rs.8,00,000/- is not finding in the place. Further this statement is given by the bank after 20 years of the said transaction. The petitioner further submit that the document marked as Ex.A7 a letter given to me under Right to information Act contains facts which are totally in contradiction with the contents of B2. Therefore, the bonafides of B2 and B4 documents filed by the defendant do not appears to be genuine. Under these

circumstances it is just and necessary that concerned bank personnel who has signed the documents needs to be examined, and therefore necessary subpoena may be issued by this Hon'ble Court to the said personnel for the purpose of deposing before this Hon'ble Court. Hence this petition.

3. The averments in the counter in short as follows:

The respondent has stated that this petition for issuing subpoena is based on vague and false allegations. Exhibit B2, the statement of accounts dated 11.03.2024 of Canara Bank Aminjikai Branch is in order and not unclear and vague as alleged by the petitioners/plaintiffs. The disputed cheque is not cheque No. 967319 as per the plaintiff. As per Paragraph 8 of the plaint and Paragraph 8 of the proof affidavit of the 1st plaintiff, the disputed cheque is a cheque bearing No. 977319. Further the petitioners/plaintiffs have not raised any dispute regarding any cheque bearing No. 967318 for Rs.8,00,000/- in the plaint. The veracity of Ex.B2 cannot be questioned merely because it was issued after 20 years of the transaction. The petitioners/Plaintiffs are thus embarking on a moving enquiry by referring to cheques which are not part of the pleadings and are trying improve on their case. There is no contradiction between ex.A7 and Ex.B2. The respondent clarified in the cross examination that it was mentioned in Ex.A7 that a cheque for Rs.7,00,000/- did not come for clearance and it was mentioned so since it was a bearer cheque. Ex.B4 clearly mentions that the cheque was paid directly. Thus there is no contradiction between Ex.A7 and Ex.B2. Exs.B2 and B4 are genuine documents. The

petitioners/plaintiffs are misleading this Hon'ble court by making such false allegations. Thus the petitioners/plaintiffs have not made out any case for issuing subpoena to the bank personnel. Hence dismiss the above petition.

4. The point for consideration:-

1. Whether the petition is to be allowed or not?

5.POINT:

On hearing the arguments of both sides, the document which has been filed in Document No. Ex.A7 is found to be in contradiction totally in contradiction with the contents of B2. But at the same time the learned counsel appearing for the respondent has stated that with regard to the cheques the plaintiff has not averred anything in the plaint and the document which has been filed as Ex.B2 and B4 are genuine only. The Documents have produced after 20 years may not be a reason to contradict the document and also without pleading about the cheque and with regard to the cheque there was a clear deposition by the parties. The plaintiffs wanted to improve their case by filing this petition and for seeking issuance of subpoena to the authorities and apart from that with regard to Ex.A7 and Ex.B2 the petitioner in the cross examination it was mentioned Ex.A7 that is cheque for Rs.7,00,000/- did not come for clearance that it was mentioned since it was a bearer cheque. Ex.B4 clearly mentioned that the cheque was paid directly. So the question of examining the Bank Manager will not arise at this stage. Hence this petition is dismissed.

In the result this petition is dismissed. No costs.

Dictated directly to the Steno-Typist, computerized by her, after making corrections pronounced by me in Open Court the 26th day of September 2025.

III Additional Judge.
(FAC) II Additional City Civil Court,
Chennai.

Petitioner side witness and Exhibits :-Nil
Respondent side witness and Exhibits:- Nil

III Additional Judge.
(FAC) II Additional City Civil Court,
Chennai.

Draft/Fair order
I.A.No. 2 of 2025
in
O.S.No. 4093 of 2019
Dated: 26.09.2025
II Additional Court.