

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE,
DINDIGUL.

PRESENT : **THIRU. A.K. MEHBUB ALI KHAN, B.L.M., LL.M.,**
PG.D.PM/IR.,

ADDITIONAL DISTRICT JUDGE, DINDIGUL.

Tuesday, the 19th Day of September 2023

I.A. No.6/2023

in

O.S. No.237/2021

1.D.Valarmathi

2. S.Vasugi

... Petitioners/Plaintiffs

-Vs-

1.N.Karuppusamy

2. Saranya

... Repondents/Defendants

This petition came on 5.09.2023 before me for hearing in the presence of Tvl. K.Subramanian, R.V.Pandiarajan. M.Nelsonjulius and S.Sivashanmugam, Advocates for the petitioners and of Tvl. M.Kamatchi and S.Ahamadhu Aslam, Advocates for the 1st Respondent. 2nd Respondent called absent and set exparte and on perusal of records, this Court delivers the following :

ORDER

1. Petition filed by the petitioners/plaintiffs under Order-26, Rule 10(A) and Sec. 151 of C.P.C., and Sec.45 of Indian Evidence Act.

2. Petitioners have filed the suit for recovery of money on pronote against the respondents and the respondents have denied the execution of the said pronote. Hence in order to prove that the suit pronote was executed by the 1st defendant, the petitioners want to compare the signature and thumb impression of this defendant found in the suit pronote with that of the admitted documents, i.e., the sale agreement executed by this 1st defendant to one Valliammal on 11.9.2018 and the thumb impressions obtained in Open Court. Hence they have also filed the registration copy of the said sale agreement for comparison of the signatures, thumb impressions. Therefore, petitioners pray for appointment of Advocate Commissioner and to obtain signatures and thumb impressions from the 1st defendant before the Court and send them to forensic handwriting expert and get the report .

3. The respondent has stated that the petition is filed only to drag on the suit proceedings knowing fully well that the suit will be dismissed. The petitioners have not filed original document for comparison but has filed only copy of the document. Further, the signatures made during the contemporary period alone can be compared and this petition filed without filing such original document is not maintainable and has to be dismissed.

4. No oral and documentary was evidence adduced on either side.
5. Point for consideration in this petition is, **Whether the petition be allowed ?**

6. **POINT :**

Admittedly, the petitioners have sought to compare the signatures of the 1st defendant made in suit pronote with the copy of the sale agreement dated 11.9.2018. The suit pronote was executed on 20.12.2018. Both the documents are contemporary in period and so the objection of the 1st defendant that the said documents are not contemporaneous is not acceptable.

7. Further, the petitioners have also sought to compare the thumb impression of 1st defendant found in both documents. Hence, the objections raised by the defendant are not acceptable. No serious prejudice will be caused if the signatures are compared.

8. Hence it is held that the signatures and the thumb impressions of the 1st defendant in pronote and the sale agreement shall be sent to forensic department for comparison. It is further held that since the sale agreement is only a copy, the thumb impressions of the defendant shall be obtained in Open

court in the presence of both sides and send it for comparison. This point is decided accordingly.

In the result, Advocate **Thiru. N.Jegadesan,** is appointed as Advocate Commissioner and the Advocate Commissioner is directed to get the documents from this Court viz. (1) Promissory Note dated 20.12.2018 along with the documents which containing the admitted signatures of the defendant viz. (1) Sale Agreement dated 11.09.2018, the thumb impressions of the 1st defendant shall be obtained in Open Court in the presence of both sides and handover the same to Madurai Forensic Lab and after completion of examination get the report from the said Forensic Lab. The petitioners are directed to pay **Rs.5,000/-** as Advocate Fee directly to the Advocate Commissioner. The petitioners are further directed to pay necessary Charges to the Forensic Lab for comparison. Call on : **31.10.2023** for commissioner report.

Dictated to the stenographer, directly typed by her in computer, corrected by me and pronounced in the Open Court on this the 19th day of September 2023.

Additional District Judge,
Dindigul.