

**IN THE COURT OF DISTRICT MUNSIF UTHANGARAI
KRISHNAGIRI DISTRICT**

**Present : Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.
District Munsif, Uthangarai**

On this Tuesday, the 25th day of March 2025

I.A.No. 06 of 2024 in O.S.No. 58 of 2018

TNKI13-000065-2018

Sivaraj

...Petitioner / Defendant

/versus/

Chennaiyan

...Respondent / Plaintiff

This interlocutory application came up before this Court on 18.03.2025 for final hearing in the presence of advocate Thiru. K. Murugan, the learned counsel for the petitioner and advocate Thiru. M. Murugesan, the learned counsel for the respondent and upon hearing both sides and on perusal of records and having stood over for consideration till date, this Court delivers the following:

ORDER

The application has been filed under Order XXVI Rule 10A of the Code of Civil Procedure, 1908 seeking forensic examination of the disputed signatures in the suit promissory note by a handwriting expert and calling for a report.

The averments of the petitioner in brief:

1. The petitioner herein is the defendant in the suit instituted by the respondent / plaintiff for recovery of sum allegedly borrowed upon promissory note. The petitioner avers that the petitioner has not borrowed any sum from the respondent on 20.06.2016 and has not executed any promissory note in favour of the respondent for the same. The petitioner avers that the suit promissory note has been fabricated by the respondent as if the petitioner had borrowed loan in the year 2016 and as if the petitioner has executed the suit promissory note and the respondent, being aggrieved

by the dispute between himself and Mani, has fabricated the suit promissory note with the aid of his acquaintance. Hence, in order to prove that the signatures are not that of the petitioner, it is necessary to compare the disputed signatures in the suit promissory note with that of the admitted signatures of the petitioner in *vakalat*, summons, notice, affidavits in I.A.No. 01 of 2023 and I.A.No. 02 of 2023 and the deed registered as Doc.No. 2590/2013 on the file of Sub-Registrar, Pochampalli, wherein the petitioner is signed as a witness and the deed registered as Doc.No. 660/2019 on the file of Sub-Registrar, Pochampalli, executed by the petitioner. The petitioner avers that it is necessary to examine the disputed signatures in the suit promissory note with the admitted signatures of the petitioner in *vakalat*, summons, notice, affidavits in I.A.No. 01 of 2023 and I.A.No. 02 of 2023 and the deed registered as Doc.No. 2590/2013 on the file of Sub-Registrar, Pochampalli, wherein the petitioner is signed as witness and the deed registered as Doc.No. 660/2019 on the file of Sub-Registrar, Pochampalli, executed by the petitioner by a forensic expert and seeks to appoint a commissioner to deliver the documents to the forensic expert and obtain report. Hence, the petitioner prays for allowing this application.

The averments of the respondent in brief:

2. The respondent denies the averments of the petitioner in toto and avers that the respondent had sent legal notice to the petitioner since the petitioner did not repay the debt. The respondent avers that the signatures of the petitioner differ in the documents registered as Doc.No. 2590/2013 and Doc.No. 660/2019 in themselves which shows that the petitioner is in habit of wilfully affixing signatures with variations. The respondent avers that it is sufficient to prove the execution of the suit promissory note by examining the attesting witness and there is no real necessity to send the suit promissory note for forensic examination which would cause only unnecessary delay and seeks for dismissal of the application. The respondent avers

that if the Court is inclined to allow this application, it is prayed by the respondent that every signature in the documents ought to be compared with the signatures in the promissory note.

Point for consideration:

3. Whether this application is liable to be allowed?

Evidence:

4. Neither of the parties to this application has adduced any oral or documentary evidence.

Discussion:

5. This Court, having considered the arguments advanced on both sides and thoroughly examined the pertinent case records, proceeds to delineate its findings by the following discussion. This suit has been instituted for recovery of sum of Rs. 60,000/- from the petitioner borrowed upon promissory note. This application has been filed by the defendant seeking forensic examination of the disputed signatures in the suit promissory note. It is the case of the petitioner / defendant in his written statement that the signatures in the suit promissory note is not that of the petitioner / defendant and the petitioner has denied the signatures and denied execution of the suit promissory note and denied borrowing of the debt from the respondent / plaintiff. The respondent / plaintiff has resisted this application that the petitioner / defendant is in habit of wilfully affixing signatures with variations and that it is sufficient to examine the attesting witness in proof of the execution of suit promissory note. The averments in the written statement of the petitioner / defendant clearly show that the petitioner / defendant has denied the signatures in the suit promissory note as follows:

“...ஏற்கனவே மணி என்பவர் தவரவிட்ட ஒரு தவனை தொகைக்காக பிரதிவாதியின் இருசக்கர வாகனத்தையும், கறவை மாட்டையும் பிடித்துச்சென்று அராஜக

செயலில் ஈடுப்பட்டதோடு இந்த பிரதிவாதிக்கு எதிராக மோசடியாக பிரதிவாதிக்கு மணி என்பவர் கடன் தரும்போது பெற்று வைத்திருந்த புரோநோட்டில் இருந்த கையெழுத்தை மோசடியாக போட்டு மோசடியாக புரோநோட்டினை தயார் செய்து மணி என்பவர் அவரது தந்தையின் பேரில் இந்த வழக்கினை தாக்கல் செய்துள்ளதால் வாதியின் வழக்கு தள்ளுபடி செய்ய வேண்டிய ஒன்றாகும்...”

6. Hence, it is necessary for the petitioner / defendant to establish that the signatures in the suit promissory note is not that of the defendant. Hence, this Court is of considered view that the claim of the petitioner / defendant seeking forensic examination of the disputed signatures in the suit promissory note is legitimate. However, the principles on forensic examination of disputed signatures is well settled and that the disputed signatures can only be compared with the admitted signatures in the documents created at the contemporaneous period. It is the well settled law that the documents admittedly executed in a period of 3 years before or after from the date of alleged affixation of the disputed signatures are considered to be contemporaneous documents. The Honourable Madras High Court in the case of **C. Gunaseelan v. Vijayakumar & Anr.**,¹ has opined as follows:

“..The documents now sought to be produced for comparison are of the years 1975, 1992 and 2014, whereas the agreement is dated 12.03.2004. It is well settled that only the signature within three (3) years of disputed signature can be compared for giving opinion...”

7. The petitioner has sought to compare the disputed signatures in suit promissory note with the admitted signatures in the documents registered as Doc.No. 2590/2013 and Doc.No. 660/2019. The suit promissory note has been alleged to have executed on 20.06.2016. Hence, the settlement deed dated 13.03.2019 registered as Doc.No. 660/2019 and the sale agreement dated 01.11.2013 registered as Doc.No. 2590/2013

1 C. Gunaseelan v. Vijayakumar & Anr., C.R.P.(PD)Nos.587 & 588 of 2015 & M.P.No. 1 of 2015.

are contemporaneous documents, which are also registered documents carrying higher standard of proof of execution by the petitioner. Further, it is not the case of the respondent that the deeds were not executed by the petitioner but it is the case of the respondent that the petitioner is in habit of affixing signatures with willful alterations. This Court is of considered view that forensic examination by handwriting experts would also disclose such willful alterations if done by the same person since the reasoning would be based upon established scientific principles on handwriting characteristics. Hence, such willful alterations by the petitioner, if any, would also be exposed and this would support the case of the respondent. Hence, this Court is of the considered view that allowing the prayer of the petitioner seeking to compare the disputed signatures with the signatures in the settlement deed dated 13.03.2019 registered as Doc.No. 660/2019 and the sale agreement dated 01.11.2013 registered as Doc.No. 2590/2013 is permissible and the same would not cause any prejudice to either of the parties. However, the petitioner has also sought to compare the signatures affixed by the petitioner in *vakalat*, summons, notice, affidavits in I.A.No. 01 of 2023 and I.A.No. 02 of 2023 also with the disputed signatures and it is a settled position of law that the same is not permissible. Further, this Court is of considered view that it is necessary to obtain specimen signatures from the petitioner in the open court in the presence of the learned counsels for both sides for the purpose of elucidating the handwriting characteristics of the petitioner. This procedure of procuring specimens in the open court for the purpose of comparison has been recognized as a proper procedure and held to be within the powers of the Court under section 73 of the Indian Evidence Act, 1872 by the Honourable Madras High Court in *Sri Maruthi Processors & Ors. v. R. Subramaniam*,² and held to be applicable to civil court in *M. Venkatasamy (Deceased) & Ors. v. Mythira Devi & Ors.*,³ Considering the facts and circumstances of this case and for the foregoing

² Sri Maruthi Processors & Ors. v. R. Subramaniam., (2013) 1 L.W.(CrI.) 440.

³ M. Velusamy (Deceased) & Ors. v. Mythira Devi & Ors., 2017 (2) CTC 79.

reasons, this Court finds it necessary that the petitioner has to be ordered to appear before this Court to give specimen signatures in the open court. Accordingly, this Court is inclined to allow this application only for comparison of the disputed signatures in the suit promissory note with the admitted signatures in the settlement deed dated 13.03.2019 registered as Doc.No. 660/2019 and the sale agreement dated 01.11.2013 registered as Doc.No. 2590/2013 along the specimen signatures which would be obtained in the open court, and is not inclined to allow comparison with court records.

Result:

8. *As a result, this application is partly allowed without cost as follows:*

(1) *It is ordered that the disputed signatures in the suit promissory note be compared with the admitted signatures in the settlement deed dated 13.03.2019 registered as Doc.No. 660/2019 and sale agreement dated 01.11.2013 registered as Doc.No. 2590/2013 on the file of Sub-Registrar, Pochampalli and the specimen signatures which would be obtained in the open court and examined by a scientific expert for handwriting analysis.*

(2) *The petitioner shall bear all expenses incurred as fee and other expenses for the process of comparison by the scientific expert at the government forensic division for handwriting analysis.*

(3) *Advocate K. Vadivel (Ms. 246/2001) is appointed as the commissioner for procuring the documents for forensic examination under sealed cover from this Court to the expert and collect report from the expert under sealed cover and to file before this Court. The commissioner is further directed to file report on the process of consignment undertaken.*

(4) The remuneration is fixed as Rs. 10,000/- (Rupees Ten-Thousand only) which is directed to be paid directly by the petitioner to the commissioner on or before 01.04.2015.

(5) The petitioner is directed to appear in person before this Court for giving specimen signatures in the open court in the presence of both counsel.

This order was dictated to the steno-typist and transcribed by her on computer and after rectification of mistakes, pronounced by me in open court on this 25th day of March 2025.

District Munsif
Uthangarai

Annexure

Petitioner side evidence

Petitioner side Witnesses: Nil

Petitioner side Exhibits: Nil

Respondent side evidence

Respondent side Witnesses: Nil

Respondent side Exhibits: Nil

Court Documents: Nil

District Munsif
Uthangarai