

**IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE,
TIRUCHENGODE**

Present: Tmt.G.Rubana, B.Sc., M.L.,
Additional Subordinate Judge, Tiruchengode.

On Thursday, this the 11th day of september 2025

I.A.No: 02 of 2024

in

O.S.No: 52 of 2017

Mr.P.Subramanian,

.....Petitioner/ Plaintiff.

//Versus//

1. Ms.Jaya,
2. Mrs.Reena,
3. Mrs.Nalina Devi,
4. Mrs.Bakkiyam, (Died),

.....Respondents/ Defendants.

This petition has been filed on 13.02.2024 and coming on 02.09.2025 this day for final hearing before me in the presence of Advocate Mr.K.Pushparaju, B.Sc., B.L., for the Petitioner /Plaintiff and Advocate Mr.Gu.Nagappan, B.Sc., B.L., for the the Respondents/Defendants and having stood over for consideration till this day, upon perusing the connected material parts of records and hearing both side argument, this court doth delivers the following:

Order

This is an application under Order 13 Rule 3 and Section 151 of CPC seeking rejection of the photograph marked during the cross-examination of PW-1 as Ex.B:1.

(II). The gist of the affidavit filed by the petitioner / plaintiff is as follows: -

(i). The petitioner submits that he is the plaintiff in the main suit filed for recovery of money on the basis of a promissory note. The respondents are contesting the suit on the ground that the said promissory note is fabricated and without consideration, whereas the petitioner submits that the promissory note was duly executed for valuable consideration. On 12-07-2023, when the case was posted for his cross-examination, the matter was passed over, and due to mild fever the

petitioner was resting in the court campus. At that time, the third respondent took a photograph on her mobile phone while one Ramaswamy was standing nearby, and the said photograph was later marked during cross-examination as Ex.B:1. The petitioner submits that Ex.B:1 is wholly irrelevant to the issues in the suit, since the respondents have not made any averment about Ramaswamy in their pleadings, and Ramaswamy has no connection with this case. The petitioner further submits that use of mobile phones within the court premises is prohibited, and hence the marking of Exhibit B1 is a violation. The petitioner therefore prays that Ex.B:1 be rejected.

(III). The gist of the affidavit filed by the respondents / defendants is as follows: -

The Respondent submits that the present petition is false, frivolous, vexatious, and not maintainable either in law or on facts. Except those facts expressly admitted, the Petitioner is put to strict proof of all other allegations. It is true that the Respondents are contesting the case, and the alleged suit promissory note said to have been executed by the deceased Muthuchamy is fabricated and not supported by consideration. The present suit has been filed at the instigation of the erstwhile partner of the deceased Muthuchamy, and the Petitioner is one of his associates. A group of persons are acting in collusion with the said partner and have filed false and vexatious cases similar to the present one. Ramasamy himself had filed O.S. No. 46 of 2017 on the file of this Hon'ble Court for recovery of money, and the said suit was dismissed on 15-06-2023. Hence, the contention of the Petitioner that Ramasamy is not connected with this case is false. The photograph marked as Ex.B:1 clearly establishes the connection between the Petitioner and Ramasamy. PW1, during his cross-examination, has admitted this fact, and therefore Ex.B:1 is a vital and valid document to prove the defence case. Only after realizing his admission, the Petitioner has come forward with this vexatious petition to reject a document that has already been marked in evidence. This petition is without merit and deserves to be dismissed.

(IV). No oral or documentary evidence has been let in on both side.

(V). Points for Determination :

Whether this Petition is to be allowed or not?

(i). Heard the learned counsel for the petitioner and perused the records.

(ii). The learned counsel for the petitioner submitted that the defendant, without the knowledge or permission of the plaintiff, had taken the photograph within the court premises, where such use of mobile phones is prohibited, and the said photograph marked as Ex.B:1 is liable to be rejected at once.

(iii). On the other hand, the learned counsel for the defendants submitted that the present suit has been filed against the legal representatives of the deceased Muthusamy, and that the erstwhile partners have been filing similar suits. It was further submitted that one Ramaswamy, who is also connected with the petitioner, had earlier filed a suit against the defendants, which was dismissed by this Court. Therefore, the photograph in question is a vital piece of evidence, and the present petition deserves to be dismissed.”

(iv). On perusal of the plaint, it reveals that one Muthusamy had borrowed a sum of Rs.4,00,000/- from the plaintiff for urgent family expenses and for the development of business and executed the suit promissory note. However, on 20.02.2017, the executant died, leaving the respondents as his legal heirs. Since the respondents are in possession and enjoyment of the estates of the deceased, the plaintiff has filed the present suit against them.

(v). This case has been pending for more than five years, and the suit was posted for trial between 21.12.2022 and 05.04.2023 in list and later in the special list. On 05.04.2023, the plaintiff examined himself as PW1 and Ex.A:1 to Ex.A:4 were marked. Thereafter, the cross-examination of PW1 was adjourned from time to time to 25.04.2023, 14.06.2023, 10.07.2023, and 12.07.2023. On 12.07.2023, during the cross-examination of PW1, a photograph was marked as Ex.B:1, subject to objection by the plaintiff's counsel, and it was specifically recorded that the relevancy and admissibility of the said document would be decided at the time of judgment. The case was thereafter adjourned for continuation of cross-examination on 03.08.2023, 12.08.2023, 13.09.2023, 11.10.2023, and 06.12.2023. On 06.12.2023, the

petitioner/plaintiff filed the present petition under Order 13 Rule 3 CPC seeking rejection of Ex.B:1. This petition has been pending for more than one and a half years.

(vi). On perusal of the cross-examination of PW1, it is seen that he admitted that one Ramaswamy had casually spoken with him and that, at the relevant time, the daughter of Muthuswamy had taken the photograph. Thus, the fact of marking Ex.B:1, subject to objection, and the plaintiff's admission are already on record.

(vii). This Court is of the considered view that the admissibility and evidentiary value of Ex.B:1 are matters to be decided only at the stage of final judgment, upon appreciation of the entire evidence and issues in the suit. Such questions cannot be decided in an interlocutory application. Hence, this petition is devoid of merits and is liable to be dismissed.

Result:-

In the result this petition is dismissed. No costs.

Dictated by me to the Steno-Typist and has been typed in the computer directly, corrected and pronounced by me in the open Court on 11th day of September 2025.

Additional Subordinate Judge,
Tiruchengode.

- 1) Petitioner side oral and documentary evidence : Nil
- 2) Respondent side oral and documentary evidence: Nil

Additional Subordinate Judge,
Tiruchengode.

Fair/Draft order

IA.NO. 02/2024

in

OS.No.52/2017,

Date : 09.09.2025.