

**IN THE COURT OF THE DISTRICT MUNSIF OF UDHAGAMANDALAM**

Present: **Thiru. L. PRAKASH, B.Sc., B.L.,**
DISTRICT MUNSIF, UDHAGAMANDALAM.

Wednesday, the 17th day of June 2026

I.A. No. 01 to 04 of 2026
in
O.S. No. 85 of 2021
(C.N.R. No. TNNS030 - 00112 - 2021)

N.J. Chandran

... Petitioner/Plaintiff

/VS/

1. N.J. Subramani

2. N.J. Sivalingam

3. The Executive Officer
Nanjanadu Panchayat.

... Respondents/Defendants

This petition came on 24.04.2026 for final hearing before me in the presence of Mr. K. Jaichandran, learned Counsel for the Petitioner/Plaintiff and of Mr. P. Rangawamy, learned Counsel appearing for the Respondent/Defendant No. 2 and the Respondents/Defendants No. 1 and 3 remains exparte in the main suit, upon hearing both sides, and upon considering case records carefully, this court passes the following

COMMON ORDER

1. The petition in I.A. No.01 of 2026 has been filed under Section 151 of the Code of Civil Procedure seeking to reopen the plaintiff's side evidence,



the petition in I.A. No.02 of 2026 has been filed under Rule 75 of the Civil Rules of Practice and Section 151 of the Code of Civil Procedure seeking to call for the admitted signatures of the petitioner allegedly available in the Joint-II Sub-Registrar Office, Udhagamandalam, in connection with the sale deed dated 09.09.1982 registered as Document No.587 of 1982, for being forwarded to the handwriting expert, the petition in I.A. No.03 of 2026 has been filed under Order XXVI Rule 10-A and Section 151 of the Code of Civil Procedure seeking appointment of an Advocate Commissioner to transmit the disputed Exhibit B-4 agreement along with the alleged admitted documents to the Director, Forensic Sciences Department, Chennai, for expert opinion and the petition in I.A. No.04 of 2026 has been filed under Order VII Rule 14 and Section 151 of the Code of Civil Procedure seeking condonation of delay in producing the petition-mentioned document, namely, the application dated 17.12.1981 allegedly submitted by Sevaniammal before the Tahsildar, Udhagamandalam.

2. This common order shall govern the disposal of I.A.Nos.01 to 04 of 2026, as the parties are one and the same and the issues involved in these applications arise out of the same set of facts and are interconnected.

Gist of Petition and affidavit:

3. The case of the petitioner/plaintiff, in brief, is that he has instituted the suit for permanent injunction restraining the defendants from altering the nature of the suit property and from interfering with his peaceful possession and enjoyment thereof. According to him, the 2nd defendant relies upon Exhibit B-4, an alleged agreement purportedly executed by the deceased Sevaniammal and attested by the petitioner. It is his specific contention that Exhibit B-4 is a forged and fabricated document; that Sevaniammal never executed the same; that the left thumb impression



found therein is not that of Sevaniammal; and that the signature found therein as an attesting witness does not belong to him. Therefore, according to the petitioner, reopening of evidence, production of additional documents and obtaining expert opinion have become necessary to establish the alleged forgery.

Gist of Counter statement of 2nd Respondent:

4. The 2nd respondent/2nd defendant resisted all the applications contending that they are devoid of merits and have been filed only to protract the proceedings. It is contended that the suit has already reached the stage of arguments and that the applications have been filed belatedly. It is further contended that the documents proposed for comparison do not furnish proper admitted materials and that the alleged original application dated 17.12.1981 cannot form a reliable basis for scientific examination. The maintainability and necessity of all the applications are disputed.

5. The respondents/defendants No. 1, and 3 remains exparte in the main suit. Hence notice not given to them and there was no counter statement on their side and did not contest their case.

Discussion:

6. Heard both sides. Petition, counter statement and the case records perused carefully. It is not in dispute that the suit is one for permanent injunction. It is also not in dispute that the evidence on both sides has been completed and the suit is now posted for final arguments.

7. It is the specific case of the plaintiff that Exhibit B-4 is a forged document. Equally, it is the defence of the 2nd defendant that the said document is genuine. The records further disclose that Exhibit B-4 was marked through D.W.1



without objection from the plaintiff at the time of marking. However, merely because a document has been marked as an exhibit, it does not automatically follow that the contents thereof stand proved in accordance with law. The distinction between admission of a document in evidence and proof of its execution is well recognised.

8. It is settled proposition of law that the mere marking of a document as an exhibit does not dispense with the proof of its contents where such proof is otherwise required by law. Therefore, the marking of Exhibit B-4 through D.W.1 cannot, by itself, be construed as proof of its due execution or genuineness.

9. The records further reveal that during the cross-examination of D.W.1, the plaintiff had specifically suggested that the signature found in Exhibit B-4 does not belong to him. Thus, the plea disputing the signature in Exhibit B-4 has been put to the witness and forms part of the evidence already available on record.

10. The petitioner seeks to invoke Order XXVI Rule 10-A of the Code of Civil Procedure for scientific investigation. Order XXVI Rule 10-A of the Code of Civil Procedure empowers the Court to issue a commission for scientific investigation whenever any question arising in a suit involves scientific investigation which cannot, in the opinion of the Court, conveniently be conducted before the Court and where such investigation is necessary or expedient in the interests of justice.

11. Section 45 of the Indian Evidence Act, 1872 provides that when the Court has to form an opinion upon a point relating to identity of handwriting or finger impressions, the opinion of persons specially skilled in such matters is a relevant fact. Nevertheless, expert opinion is only an advisory piece of evidence and is not conclusive in nature.



12. In **Murarilal v. State of Madhya Pradesh, (1980) 1 SCC 704**, the Hon'ble Supreme Court observed that expert evidence is to be received with caution and that the Court must ultimately arrive at its own conclusion upon appreciation of the entire evidence available on record.

13. The petitioner also seeks to rely upon the application dated 17.12.1981 alleged to have been submitted by Sevaniammal before the Tahsildar, Udhagamandalam, as containing her admitted left thumb impression. However, the petitioner has not explained in any manner as to how the said original application, which ordinarily ought to remain in the custody of the concerned Government office, came into his possession. No particulars have been furnished regarding the source from which the petitioner obtained the said document.

14. Further, the said document is admittedly in a laminated condition. In matters involving fingerprint comparison, the quality and integrity of the specimen assume importance. The possibility of the original characteristics of the impression being affected due to lamination cannot be ruled out. Therefore, it is not certain whether the thumb impression found in the said document would furnish a dependable basis for scientific comparison with the disputed impression found in Exhibit B-4.

15. The petitioner also seeks production of signatures allegedly available in the Sub-Registrar Office in connection with the document dated 09.09.1982. However, the objections raised by the 2nd defendant regarding the adequacy and clarity of the alleged admitted signatures cannot be lost sight of while considering the necessity for such an exercise.



16. More importantly, Exhibit B-4 itself is stated to be an unregistered agreement allegedly executed by Sevaniammal in favour of the 2nd defendant. Section 54 of the Transfer of Property Act, 1882 specifically declares that a contract for sale of immovable property does not, of itself, create any interest in or charge upon such property.

17. In **Suraj Lamp & Industries (P) Ltd. v. State of Haryana, (2012) 1 SCC 656**, the Hon'ble Supreme Court reiterated that an agreement to sell, by itself, does not convey title nor create any interest in immovable property and that transfer of ownership can be effected only through a legally recognised mode of conveyance.

18. The present suit is only one for permanent injunction. The principal question for adjudication in such a suit relates to the possession of the parties and the alleged interference therewith. Though Exhibit B-4 has been relied upon by the 2nd defendant in support of his defence, the evidentiary value of the said document has to be assessed on the basis of the evidence already adduced and in accordance with law.

19. It is equally settled that the burden of proving a document lies upon the party who relies upon the same. Sections 101 and 102 of the Indian Evidence Act, 1872 cast the burden upon the person asserting a fact. When the execution of a document is specifically denied, it is for the party propounding the document to establish its genuineness by acceptable evidence.

20. In the case on hand, the plaintiff has specifically denied the signature attributed to him in Exhibit B-4. Therefore, the burden to establish the due execution and genuineness of Exhibit B-4 rests upon the 2nd defendant, who seeks to derive advantage from the said document. The plaintiff cannot be compelled to disprove the



document before the 2nd defendant discharges the burden cast upon him by law.

21. The evidence on both sides has already been concluded and the suit has reached the stage of final arguments. Permitting reopening of evidence, calling for additional documents, appointing an Advocate Commissioner and undertaking scientific examination at this stage would inevitably result in reopening the entire trial and unnecessarily prolonging the disposal of the suit.

22. The learned counsel appearing for the petitioner/plaintiff vehemently contended during the course of arguments that D.W.1, in his cross-examination, had stated that he had no objection for sending Exhibit B-4 and the connected documents for expert opinion and, therefore, the present applications deserve to be allowed. This Court has carefully considered the said submission.

23. Merely because D.W.1 has stated during cross-examination that he has no objection for sending the disputed document for expert examination, the same by itself does not create an obligation upon the Court to invariably direct such scientific investigation. The power conferred upon the Court under Order XXVI Rule 10-A of the Code of Civil Procedure is discretionary in nature and is required to be exercised judiciously, only when the Court arrives at a satisfaction that such scientific investigation is necessary or expedient for effectively adjudicating the real controversy involved in the suit.

24. The consent, concession or absence of objection on the part of a witness or even a party cannot substitute the judicial satisfaction that the proposed expert examination is essential for deciding the issues arising in the suit. The Court is duty-bound to independently assess the relevance, necessity and utility of obtaining expert opinion in the facts and circumstances of each case. If the Court finds that the dispute can be effectively adjudicated on the basis of the pleadings and the evidence already



available on record, or that the proposed exercise would not materially assist in resolving the issues involved, it is not mandatory to send the document for expert opinion merely because a party expresses no objection to such a course.

25. In the present case, as already discussed, the suit is one for permanent injunction and the burden to establish the genuineness and due execution of Exhibit B-4 rests upon the 2nd defendant who relies upon the same. Considering the nature of Exhibit B-4, the character of the relief sought in the suit, the doubtful utility of the documents proposed for comparison and the stage at which the applications have been filed, this Court is of the view that the proposed expert examination is not necessary for deciding the issues involved in the suit. Therefore, the submission of the learned counsel for the petitioner based upon the statement of D.W.1 does not advance the case of the petitioner nor warrant exercise of discretion under Order XXVI Rule 10-A of the Code of Civil Procedure.

26. Having regard to the nature of the relief sought in the suit, the character and evidentiary value of Exhibit B-4, the absence of explanation regarding the custody of the alleged original application dated 17.12.1981, the doubtful utility of the laminated document for fingerprint comparison, the settled principles relating to burden of proof and expert evidence, and the stage at which the present applications have been filed, this Court is of the considered view that examination of the documents through expert opinion is unwarranted for the effective adjudication of the present suit. The issues involved in the suit can very well be decided on the basis of the pleadings and the oral and documentary evidence already available on record.

27. In such view of the matter, this Court finds that there is no merit in I.A.Nos.01 to 04 of 2026, and hence not inclines to allow these petitions.



RESULT

28. *In the result, I.A.Nos.01, 02, 03 and 04 of 2026 are dismissed. No costs.*

This order is dictated to the steno - typist, typed by her in computer, corrected by me and pronounced by me in the open court on this 17th day of June 2026.

**District Munsif,
Udhagamandalam.**



Draft/Fair Order:

**I.A. No. 01 to 04/2026
in
O.S. No. 85/2021**

Dated: **17.06.2026**

**District Munsif Court,
Udhagamandalam.**