

**In the Court of Principal District And Sessions Judge, Pudukkottai.
Present : Tmt. G.Subathira Devi, M.L.,
Principal District Judge,Pudukkottai.**

Wednesday the 11th day of September 2024

I.A.No. 04/2024 in O.S.No. 69/2018

Ragamadulla

...Petitioner/Plaintiff

//Versus//

Somaiya

...Respondent/Defendant

This petition is coming before this court on 03.09.2024 for final hearing in the presence of Thiru. S. Ramesh, Advocate for the Petitioner and Thiru. G. Ramalingam, Advocate for the Respondent and upon hearing the arguments of both sides, and on perusing the records and having stood over till this date for consideration, this court delivers the following...

ORDER

This petition under section 47 of Indian Evidence Act praying to compare the signature of the petitioner/plaintiff in Ex.B1 and Ex.B5 with the signature of the petitioner/plaintiff in the documents to be filed by the petitioner/plaintiff before filing of the suit by an handwriting expert and file this report.

2. The petition averments in brief are as follows:-

The petitioner is the plaintiff in the suit. The petitioner/plaintiff have filed this suit for recovery of money due on a promissory note. After closing the plaintiff side evidence ,the defendant had filed Additional Written Statement along with Ex.B1 and

Ex.B5. It is mentioned by the defendant that the petitioner signed in the above documents. The petitioner takes a ground that the petitioner did not sign in the Ex.B1 and Ex.B5. The Ex.B1 and Ex.B5 documents are created by the respondent and forgerly signed by the respondents with the help of others. Hence, the petitioner is praying to compare the signature of the petitioner/plaintiff in Ex.B1 and Ex.B5 with the signature of the petitioner/plaintiff in the documents to be filed by the petitioner/plaintiff before filing of the suit by an handwriting expert and file this report.

3. The Counter averments of Respondent in brief are as follows:-

The petition filed by the petitioner is false, not maintainable in law and circumstances of the case and is liable to be dismissed in limine. This petition is filed belatedly. The petitioner did not specifically mention in the proof affidavit that which admitted documents have been signed by the petitioner and compare with the signature in Ex.B1 and Ex.B5. The petitioner has filed this petition to drag on the proceedings of the suit. If the petition is allowed this respondent also prays to send Ex.B4 document along with Ex.B1 and Ex.B5. Hence prays to dismiss the petition with cost.

4. No oral or documentary evidences on the both sides.

5. Point for consideration is:

(1) Whether this petition is to be allowed or not ?

6. Point No.1 :

The petitioner/plaintiff filed the suit for recovery of money on pro-note dated 15.10.2017. It is in the stage of cross-examination of DW1 and DW2. Now the petitioner/plaintiff filed this petition under section 47, Indian Evidence Act to compare the alleged signature of the petitioner/plaintiff himself in Ex.B1 and Ex.B5 with the signature of the petitioner/plaintiff in the documents to be filed by the petitioner/plaintiff which are before filing of the suit and they are to be compared by an handwriting expert and file his report, since the petitioner/plaintiff is claiming that he did not execute Ex.B1 and Ex.B5 documents in the favour of respondent/defendant as claimed by him.

7. On the other hand the respondent/defendant pleaded that there is no sufficient cause shown for allowing the petition and it is to be dismissed. The petitioner/plaintiff failed to mention the contemporary period of document relied upon to be compared by the handwriting expert with Ex.B1 and Ex.B5. This petition is filed only to drag on the suit. If the court comes to the conclusion that the alleged signature of the petitioner/plaintiff in Ex.B1 and Ex.B5 are to be compared with the admitted signature of the petitioner/plaintiff of the contemporary period document to be filed by the petitioner/plaintiff, it is also necessary to compare it with the admitted signature of the petitioner/plaintiff in Ex.B4 5th page his statement given before the Inspector of Police, District Crime Branch, Pudukkottai, to arrive at a right conclusion.

8. The petitioner/plaintiff had filed this petition seeking to compare the signature in Ex.B1, Ex.B5 with Document No. 274/2018 dated 09.02.2018 original MOD document registered and cancelled by the Canara bank Muckanamalaipatti Branch filed before this court today. The contention of the respondent/defendant counsel is that along with the signatures of the petitioner/plaintiff in Ex.B1 and Ex.B5, the signature of the petitioner/plaintiff in Ex.B4 is also to be sent for comparison with the admitted signature of the petitioner/plaintiff in the document Memorandum of Deposit of Title Deeds dated 09.02.2018 executed by the petitioner/plaintiff in favour of Canara Bank. Ex.B1 and Ex.B5 are the respondent/defendant side documents. Likewise, Ex.B4 is also respondent/defendant side document. It is the reply of the petitioner/plaintiff to Inspector, Crime Branch, Pudukkottai District. Hence, there can be no grounds for the petitioner/plaintiff to protest sending Ex.B4 along with Ex.B1 and Ex.B5 to compare his signature in them with his admitted signatures in the document Memorandum of Deposit of Title Deeds dated 09.02.2018 executed by the petitioner/plaintiff in favour of Canara Bank filed before this court 03.09.2024.

9. Ex.B1, Ex.B4 and Ex.B5 are to be sent to the Assistant Director, Regional Forensic Science Laboratory, Collector's Office Road, Madurai - 625 020 along with the document "Memorandum of Deposit of Title Deeds dated 09.02.2018 executed by the petitioner/plaintiff in favour of Canara Bank." filed before this court on 03.09.2024 for comparison of the admitted signature of the petitioner/plaintiff in the document Memorandum of Deposit of Title Deeds dated 09.02.2018 executed by the

petitioner/plaintiff in favour of Canara Bank with the alleged signatures of the petitioner/plaintiff in the disputed documents namely Ex.B1, Ex4 and Ex.B5.

10. In the result Mr. Lazar, M.S.No. 1797/2008 is appointed as Advocate Commissioner. He is directed to hand over Ex.B1, Ex.B4 5th page signature and Ex.B5 along with the “Memorandum of Deposit of Title Deeds dated 09.02.2018 executed by the petitioner/plaintiff in favour of Canara Bank.” filed before this court on 03.09.2024 under sealed cover of this court to the handwriting expert at Regional Forensic Science Laboratory, Collector's Office Road, Madurai - 625 020 for comparison of the admitted signature of the petitioner/plaintiff in the document Memorandum of Deposit of Title Deeds dated 09.02.2018 executed by the petitioner/plaintiff in favour of Canara Bank with the alleged signatures of the petitioner/plaintiff in the disputed documents namely Ex.B1, Ex4 and Ex.B5.

Dictated to the Steno-typist, directly typed by her in computer, corrected and pronounced by me in open court on this the 11th day of September 2024.

**Principal District Judge,
Pudukkottai.**