

**IN THE COURT OF THE III ADDITIONAL DISTRICT JUDGE, SALEM.
PRESENT : Thiru. G.SRI RAMA JEYAM, B.L.,
III Additional District Judge,
Salem**

Saturday, the 4th day of November 2023

I.A.No.2/2022 in O.S.No.390/2022

1. A.Karbaliyan
2. Rukmani
3. Vijayalakshmi
4. Velayudam

..... Petitioners/Defendants

/ Versus /

1. K.Latha
2. K.Prakash

..... Respondents/Plaintiffs

This petition came up on 08.09.2023 for final hearing before me in the presence of Tr.K.Rajasekaran, Advocate for the Petitioners/Defendants and Tr.S.V.Sivakumar Advocate for the Respondents/Plaintiffs and upon hearing the arguments of both sides and upon perusing the records and having stood over for consideration till this day, this Court delivers the following

ORDER

Defendants in O.S.No.390/2022 are the Petitioners in the present application, which has been filed under sections 45, 47 and 73 of the Indian Evidence Act and Order 26 Rule 9 and 10-A and Sec.151 CPC, praying this Court to order comparison of the disputed signatures allegedly subscribed by the 1st Petitioner in the alleged Partition agreement Deed dated 05.06.2020, which is filed as Document No.5 along with the Complaint, with that of his admitted signatures that are contained in a registered Sale agreement dated 17.03.2016 and a registered Cancellation of Sale agreement dated 11.05.2022 by a Hand Writing Expert.

2) Heard both sides and perused the records.

3) Perusal of records would show that the Respondents in the above

Application have filed the Suit in O.S.No.390/2022 seeking the relieves of Partition and Permanent Injunction, in which, they seem to have placed reliance upon a registered Partition agreement Deed (பாகப்பிரிவினை ஒப்பந்தப்பத்திரம்) allegedly executed by the 1st Petitioner/ 1st Defendant herein.

4) According to the 1st Petitioner, he has not executed the aforesaid document and it is a forged one. It seems that in order to prove the fact that the said document was not executed by the 1st Petitioner and it is a forged one, the Petitioners seem to have filed the above Application seeking comparison of the disputed signatures found in the aforesaid Partition agreement Deed dated 05.06.2020 with that of the admitted signatures of the 1st Petitioner contained in the Documents that are stated in Paragraph No.1 of this Order.

5) In the light of the aforesaid contention, that is raised by the Petitioners, this Court feels that ordering comparison of the disputed signatures with that of the admitted signature of the 1st Petitioner through a Hand Writing Expert would be just and necessary for the just disposal of the controversies involved between the parties.

6) In such view of the matter, this Court is inclined to order comparison of the disputed signatures with that of the admitted signatures of the 1st Petitioner through an expert.

In result, the above application is allowed as prayed for and the following directions are issued;

i) The disputed signatures found in the Partition agreement Deed dated 05.06.2020 are ordered to be compared with that of the admitted signatures of the 1st Petitioner/ 1st Defendant, which are contained in the Sale agreement dated 17.03.2016 and Cancellation of Sale agreement dated 11.05.2022, through a Hand Writing Expert attached to the Office of the Director/Deputy Director (Documents Division), Hand Writing Department, Government Forensic Sciences Department, Forensic House, Mylapore, Chennai.

ii) For the above purpose, the original Partition agreement Deed dated

05.06.2020 is ordered to be transmitted to the above Expert, in a sealed cover, through an Advocate / Commissioner.

iii) Before transmitting the said Original Document dated 05.06.2020, the Sheristadhar of this Court is directed to take two photo copies of that document and she shall attest those copies properly and keep one true copy in the case bundle and another copy in her safe custody (May be in the Wall Coffor or Almirah).

iv) Advocate Tr.D.Ayyanar, M.S No.485/2018 is appointed as Commissioner in the above application.

v) The learned Advocate / Commissioner is hereby requested to receive the above documents, in a sealed cover, which will be handed over to him by the Office of this court and he shall handover the sealed cover in the Office of the Expert, which is referred above, within 10 days from the date of receipt of the sealed cover from the office.

vi) His remuneration is fixed as Rs.7,500/- (including traveling and other expenses) to be paid by the Petitioners directly to the Advocate / Commissioner within 10 days from today.

vii) The Petitioners/Defendants are further directed to pay a sum of Rs.5,000/- to the Advocate/Commissioner for the purpose of paying necessary comparison charges at the Forensic Sciences Department.

viii) The Advocate / Commissioner is hereby directed to pay necessary Expert fees at the Office of Forensic Sciences Department directly, while handing over the sealed cover in the said Office and the learned Advocate / Commissioner has to repay the balance amount, out of Rs.5,000/-, to the Petitioners / Defendants directly.

Call this application on 02.02.2024.

Dictated by me to the Steno-typist, directly typed by her in Computer, corrected and pronounced by me in open court, this the 04th day of November, 2023.

III Additional District Judge,
Salem.

APPENDIX:

Petitioners' Side Witnesses and Documents : NIL

Respondents' Side Witnesses and Documents : NIL

III Additional District Judge,
Salem.