

IN THE COURT OF THE SUBORDINATE JUDGE, METTUR

Present: Thiru. R.Saravana Babu, B.A., L.L.B.,

Subordinate Judge, Mettur

Thursday, the 04th day of June 2026

I.A.No. 3 / 2023

in

OS. No. 111/2020

Ramvel

... Petitioner /Defendant

/ Versus /

Madhammal

... Respondent / Plaintiff

This application coming up for final hearing on 11.03.2026 before this Court in the presence of Tmt.K.Kokilavani Counsel for Petitioner/Defendant, and R.Sivaraman, Advocate for the respondent/Plaintiff, upon both side hearing the arguments and perusing the records, having stood over for consideration till this date, this Court delivered the following:

ORDER

The Petitioner has filed this Petition Under Section 45 of Indian Evidence Act and section 151 r/w order 26 rule 10 A of CPC.

2. The Brief facts of the petition :

The petitioner is the respondent/defendant in the main suit. The petitioner has stated that, the respondent/plaintiff has filed the suit against the petitioner for the relief of specific performance of contract. The petitioner has stated that on 14.02.2019, the petitioner has executed the registered sale agreement to the respondent without possession. The sale agreement has been executed only for the purpose of loan and it has been returned to the respondent with 10% interest. The petitioner further stated that he never made an endorsement in the backside of the first page on 13.02.2020 for the receipt of amount of Rs.50,000/-. The petitioner counsel also issued a notice to the respondent on 20.6.2020 by stating that the petitioner is ready to pay the loan amount to the respondent. The respondent issued a reply notice dated 07.07.2020 stating that the petitioner has made an endorsement on 13.02.2020 for the receipt of amount of Rs.50,000/- regarding balance sale consideration. The petitioner denied the execution of the endorsement through his reply

notice dated 17.7.2020 and it has been not signed by his in the endorsement. The petitioner further stated that the endorsement for the receipt of Rs.50,000/- is nothing but forged and fabricated one. Therefore, the petitioner has prayed to compare the signatures found in the original sale agreement dated 13.02.2020 with the backside of the first page of the agreement which is endorsed for the receipt of Rs.50,000/-. Hence, prayed to allow the application.

3. The Brief facts of the Counter Statement :

The respondent has stated that the petition filed by the petitioner is false, frivolous and not maintainable under the law and on facts. The respondent has denied all the allegations leveled against the respondent. The respondent has stated that the suit agreement has been executed by the petitioner only for the purpose of sale. The respondent further denied that the suit sale agreement has been executed only for the purpose of loan and the petitioner has repaid the amount with 10% interest is highly imaginary and false. The petitioner in 1st turn stated that he has executed the sale agreement for the purpose of loan with interest at the rate of 3.5% per Rs.100/- whereas, in the petition he again stated that executed the sale agreement at the rate of 10% per Rs.100/-. It is found from the pleadings that the statement of the petitioner are appears to be inconsistency. The respondent has stated that the petitioner has received a sum of Rs.50,000/- from the respondent on 13.02.2020 before the witnesses. The petitioner has requested the respondent to give some more time to vacate the property due to Covid-19 pandemic. The respondent further stated that the petition has been filed only to delay the trial and it does not contain any merits. It is further stated that this petition has been filed only to protract the proceedings and it is liable to be dismissed.

4. Now the point for consideration is that:

Whether the application filed Under Section 45 of Indian Evidence Act and section 151 r/w order 26 rule 10 A of CPC is allowed or not?

5. Heard the both sides and documents perused.

6. Point:

(6.1) The petition has been filed by the petitioner under section Under Section 45 of

Indian Evidence Act and section 151 r/w order 26 rule 10 A of CPC to send the admitted signature of the petitioner to the expert to prove that the disputed sale agreement and endorsement in the back side of the 1st page in the sale agreement is forged and fabricated one. It is further stated that the defendant/petitioner did not make any endorsement in the disputed sale agreement for receipt of Rs.50,000/- on 13.02.2020 from the respondent/plaintiff as alleged in the plaint. Therefore, the petitioner/defendant has prayed to allow the application.

(6.2) The respondent has mainly contended that the petition has been filed only to delay the proceedings of the suit. The respondent further stated that on 13.02.2020, the petitioner has received a sum of Rs.50,000/- from the respondent before the witnesses. The petition has been filed only to protract the proceedings of the case. She further mainly contended that the petitioner does not have any merits and it is liable to be dismissed.

(6.3) On careful perusal of the records, it is found that the plaintiff/respondent has filed the suit against the respondent/defendant for the relief of specific performance. The petitioner/defendant has alleged that the endorsement for the receipt of Rs.50,000/- in the backside of the 1st page of the suit sale agreement is forged and fabricated one. It was resisted by the respondent/plaintiff stating that it has filed only to drag the proceedings.

(6.4) Considering the nature and circumstances of this case, it is found that the petitioner/defendant herself filed an application to send her admitted signature to compare with the admitted sale agreement to prove her defense. Therefore, the petitioner is directed to appear before this court to give her sample signatures to send the above for expert for comparison. The Director, Forensic Science Department is hereby directed to compare the admitted signature of the petitioner/defendant and submit the test report within a period of one month from the date of receipt of documents. In order to do the test amicably, Mrs.S.Sowdiya Devi Advocate appointed as the Advocate Commissioner and directed to obtain specimen signatures and thumb impression from the petitioner/defendant within a period of 15 days in a sealed cover and same shall be produce before the Director Forensic Science Laboratory, Chennai and also directed to get the report from the laboratory within a

period of one month. The advocate remuneration fees has been fixed as a sum of Rs.20,000/- and it shall be paid to the Advocate Commissioner directly in order to execute the warrant.

7. In the result, the petition is allowed with above conditions. No cost. For compliance report call on 07.07.2026.

Dictated to typist and computerized by her, and corrected and pronounced by me in the open court, this the 04th day of June 2026.

**Subordinate Judge,
Mettur**

Petitioner / Defendant Side Exhibits and Evidence : Nil.

Respondent/Plaintiff Side Exhibits and Evidence : Nil.

**Subordinate Judge,
Mettur**