

claims denying her signatures and thumb impression in Ex.A1. Reserving the material points of proving the truth, validity of genuineness of the sale agreement and its binding nature on trial, the sale agreement marked as Ex.A1 is to be sent for getting opinion of an expert. In order to prove the case, it is just and necessary to send the Ex.A1 for getting expert opinion as otherwise the petitioner will be put to very great hardship and loss. The petitioner is prepared to bear the expenses of getting the expert opinion. Hence this application.

3. The brief averments of the counter filed by the 1st respondent/1st defendant is as follows:

This petition filed by the petitioner is against law, justice and truth. In this petition, the petitioner herself is bound to prove all other associations except those which the respondents may specifically admit. The I.A.No.911/2019 was allowed by this court for the purpose of comparing disputed signatures with the admitted signature and further the petitioner should get report from the handwriting expert and It may be true as per the order of the above I.A.No.911/2019 the report of the handwriting expert is necessary. It is utter false to allege that unless the advocate commissioner is not appointed to hand over the admitted signature and disputed signature to the handwriting expert the petitioner not able to get her remedy. There is no specific direction given by this court in the above said I.A.No.911/2019 in OS No.350/2018 to appoint an advocate commissioner and further stated that the said I.A. was filed only to send for the document which is available from the records of the Sub Registrar of Omalur and till now to no steps is taken by the petitioner to send for the admitted signature from the Sub Registrar, Omalur and hence this petition is liable to be dismissed in limini.

4. The brief averments of the counter filed by the 2nd respondent/2nd defendant is as follows:

This petition filed by the petitioner is against law, justice and truth. In this petition, the petitioner herself is bound to prove all other associations except those which this

respondent may specifically admit. The petitioner has filed this original suit on false averments. The sale agreement document written by the 1st respondent to this petitioner is false and fraudulent. The petition is not sustainable in law. Therefore, since the action of the petitioner requesting the appointment of a Court Commissioner in this case has been done with the intention of delaying the petition in vain and since the petitioner herself has admitted the inability of the petitioner to prove the case. Hence this petition is liable to be dismissed in *limini*.

5. Point for consideration is whether the petition is to be allowed or not?

6. On the both sides there was no oral and documentary evidences were marked.

7. The learned petitioner's counsel argued that in order to defeat her lawful claims the 1st respondent is denying her signature and thumb impression in Ex.A1. Reserving the material points of proving the truth, validity of genuineness of the sale agreement and its binding nature on trial, the sale agreement marked as Ex.A1 is to be sent for getting opinion of an expert. It is just and necessary to send the Ex.A1 for getting expert opinion, otherwise the petitioner will be put to very great hardship and loss. Hence this application is liable to be allowed.

8. The learned 1st respondent counsel argued that the I.A.No.911/2019 was allowed by this court for the purpose of comparing disputed signatures with the admitted signature and thumb impression and further the petitioner should get report from the handwriting expert and the report of the handwriting expert is necessary. It is utter false to allege that unless the advocate commissioner is not appointed to hand over the admitted signature and disputed signature to the handwriting expert the petitioner not able to get her remedy. There is no specific direction given by this court in the above said I.A.No.911/2019 in OS No.350/2018 to appoint an advocate commissioner and the said I.A. was filed only to send for the document which is available from the records of the Sub Registrar of Omalur and till now to no steps is

taken by the petitioner to send for the admitted signature from the Sub Registrar, Omalur and hence this petition is liable to be dismissed in limini.

9) The 2nd respondent counsel argued that the petition is not maintainable, the petitioner has not filed the petition along with the O26 R10A CPC .The 1st respondent admitted documents has not mentioned in the affidavit. Therefore the petition is to be dismissed.

10) This court considering the fact of the petition that the 1st respondent filed a suit for specific performance of the sale agreement dated 24.08.2011. The 1st defendant stated that she is denying the execution of the sale agreement. The plaintiff has filed an application to send for signature and thumb impression, register maintained by the SRO Omalur Salem District dated 20.02.2012, which contain the signature and thumb Impression of 1st defendant Mariammal at the time of execution of the sale dated 20.02.2012. The respondents are contesting the suit and the 1st respondent during the trial has denied her signature and thumb Impression of Ex.A1.

11) The 2nd respondent has filed the C.R.P. No.2501/2021 and CMP No. 18843/2021 which was disposed by the Hon'ble High Court of Madras dated 05.01.2024. The above CRP was dismissed and ordered that the present application has been filed to send for the signature/thumb impression register maintained by Sub Registrar's Office, Omalur dated 20.02.2012 to compare the admitted signature of the 1st defendant available in that document with the disputed signature in the suit sale agreement. The comparing would certainly enable the court to adjudicate the issue involved in the suit.

12) This court decided that in the above IA No.911/2018 In OS 350/2018 order is confirmed by the Hon High Court of Madras. In the circumstances this court inclined to allow the application to appoint Advocate/commissioner to send the petition

mentioned document to the Finger Print Expert Bureau of Chennai for comparison of the signature and thumb impression of 1st defendant namely Mariammal found in the disputed document Ex.A1 (Sale agreement) with admitted document, the sale deed register maintained by Sub Registrar's Office, Omalur dated 20.02.2012 vide document No.1810/2012 for comparison and for report.

In the result, the petition is allowed and Thiru. R. Balu, Advocate (**M/S 472/2011 cell: 9677893252**) is appointed as Advocate/ Commissioner to take document for comparison of signature and thumb impression found in the disputed document the Ex.A1, the sale agreement dt. 24.08.2011. The Advocate /Commissioner is directed to take the document for comparison of signature and thumb impression found in the disputed document. i.e. Ex.A1 with signature/thumb impression in sale deed register maintained by Sub Registrar's Office, Omalur dated 20.02.2012 vide document No.1610/2012 to the **The Director, Forensic Science Laboratory, Mylapore, Chennai-4** and after obtaining the report of the same the Advocate /Commissioner is directed to submit the report of the Finger Print Expert along with the documents to this Court. The remuneration of the Advocate/ Commissioner is fixed as Rs.7500/- and the same shall be paid directly to the Advocate/ Commissioner by the petitioner. For compliance of report call on 15.04.2025.

Order directly dictated to the Steno typist, typed by her in computer, corrected and pronounced by me in open court, this the 18th day of February 2025.

Sd./- Gnana Balakrishnan
Subordinate Judge,
Omalur

Both side evidences and exhibits- Nil

Sd./- Gnana Balakrishnan
Subordinate Judge,
Omalur

**Order in
I.A.No.1/2021 in
O.S.No.350/2018
Dated : 18.02.2025**

