

**IN THE COURT OF THE II ADDITIONAL DISTRICT & SESSIONS JUDGE,
THANJAVUR.**

**Present :Thiru. P.Nagarajan, M.A., M.L.,
II Additional District and Sessions Judge, Thanjavur.
Monday the 25th day of August 2025
(Thiruvalluvar Aandu 2056 – Aavani Matham 9th day)**

I.A. No. 3/2025 in O.S. No.98/2023

T.Mathimaran

.....Petitioner/Defendant

/Vs/

T.Rajakanthan

.....Respondent/Plaintiff

This petition having come up for final hearing before me on **20.08.2025** in the presence of Thiru.**R.Sivanesan**, Advocate for the Petitioner/defendant and of **Thiru.S.A.Ashraff Ali**, Advocate for the Respondent/Plaintiff and upon hearing the arguments of both sides and the matter having stood over for consideration till this date, this court delivered the following

ORDER

The petitioner/Defendant has filed this petition under order 39 BSA Act 2023 Rule 10-A of C.P.C for expert opinion for appointing the advocate commissioner.

2) Gist of the Petition:

The petitioner is the defendant in the original suit. After closing of chief examination, in Ex.P.1 (Promisary note) plaintiff says that there is no objection to send expert opinion. The petitioner contended that in Ex.P.1 he has not signed any signature and this petition was filed to send the Ex.P.1 to expert opinion. Because of this comparison, the case will be proved. On 30.09.2024 the plaintiff agreed to expert opinion and he has no objection. If this Ex.P.1 is not sent to expert opinion the petitioner will be prejudiced. Hence this petition will be allowed.

3) Crux of the counter

The respondent states that the petition is to be dismissed in limine because the earlier petition under sec.39 BS Act in the same has been numbered as I.A.2/2024 was closed on 4.8.2025 on that reason that the petitioner not produced admitted documents for comparison. Hence the petition is closed. The petitioner has not complied the direction as per the order of this court inspite of sufficient time has been given by this court the petition was closed. Hence the petitioner has right to re-open the earlier petition filed by him alone not to file another petition. The petition is hit by res-judicata under sec.11 of C.P.C. The petition for comparison of signature only with the admitted signature to the hand writing expert under sec.39 of BSB is not maintainable under law. The petitioner wants to compare the disputed signature in Ex.A1 dated 03.08.2023 with the admitted signature which is filed this time is not at all come within the contemplatory period. The petitioner repeatedly stated in the petition that the PW.1 has been admitted at the time of cross as no objection to refer the signature in the Ex.A1 to hand writing expert is not at all a valid reason to allow this petition. The expert can find the two documents were written by same person or by different persons are only relevant. The petition filed by the petitioner only to drag on the proceedings. Hence the petition is dismissed.

4) Point for consideration: Petition is to be allowed or not?

(5) Both side arguments and records considered. Since the money suit is based on the Ex.A1 promissory note, the petitioner/defendant has stated that he did not

object to the sending of the promissory note to the expert opinion because he did not made any signature in the Ex.A1 promissory note. But the respondent/ plaintiff himself filed this petition stated that the expert can find the two documents were written by same person or by different persons are only relevant. The petition filed by the petitioner only to drag on the proceedings. Therefore, in the interest of justice this court inclines to order for getting expert opinion on comparison of disputed signature in Ex.A1 with admitted signature in Parter ship deed dated: 09.03.2017 and Passport of petitioner/defendant. Hence, this petition is allowed as prayed for. The Advocate Thiru.R.Veeravignesh, receive the documents Ex.A1 and Parter ship deed, Passport of petitioner in a sealed envelope from this court and hand over to the Forensic Science Laboratory and obtain the opinion of the handwriting expert. The remuneration of Advocate Commissioner is fixed at Rs.10,000/- and Laboratory fees Rs.6,000/- It is directed that the petitioner shall pay the said remuneration directly to the Advocate Commissioner and Laboratory determined for examination of the signatures on the documents shall be paid directly by the petitioner to the Advocate Commissioner. For submission of Commissioner's report with opinion of handwriting expert on or before 25.09.2025. Call on 26.09.2025.

Pronounced by me in the open court, this the **25th day of August 2025.**

**II Additional District and Sessions Judge,
Thanjavur.**

ORDER

I.A. No. 3/2025 in

O.S. No.98/2023

Dated: 25.08.2025