

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

Tuesday the 05th day of August 2025
(Thiruvalluvar Aandu 2056- Aadi Matham 20th day)

I.A. No. 4/2025 in O.S. No.68/2019

(1) M. Govindaraj
(2) G. Sadhananthapathi

.....Petitioners/Defendants

/Vs/

M. Murugesan

..... Respondent/Plaintiff

This petition having come up for final hearing before me on **31.07.2025** in the presence of **Thiru.G. Ramalaingam**, Advocate for the Petitioners/Defendants and of **Thiru.K. Parthiban**, Advocate for the respondent /Plaintiff and hearing the arguments of both sides, upon perusal of the entire material records pertaining to the case and the matter having stood over for consideration till this date, this court delivered the following

ORDER

(1) The petitioners/plaintiffs have filed this petition under section 75(e) and Order 26 Rule 10, 10A r/w 151 IPC and under section 45 of Indian Evidence Act for getting report of handwriting expert .

(2) **Crux of the petition:** The petitioners are the defendants 1 and 2 in the original suit. The suit is filed by the plaintiff bank against the defendants to pay a sum of Rs.**13,11,255/-** and future interest at the rate of 12% per annum till the realization of the amount for costs of the suit. But they plaintiffs not known to defendant. They were not borrowed any money from

the defendant and also they have not written any pronote to the plaintiff. The defendants not put in signed in the Ex.A1. The defendant has created forged signatures of the petitioners. The suit is filed by the plaintiff is vexatious. The evidence of PW.1 and PW.2 were not true. The plaintiff cannot take any steps to prove the signature affixed in the pronote compared with expert opinion. Hence this court passed order to appointment of Advocate Commissioner to bring the pronote signature with comparison of signature of Ex.B9 and B10 to the expert opinion. Hence this petition.

(3) Crux of the counter:

The averment of petition is false. The petitioners and the respondent are the family friends. Due to the family situation of petitioners on 29.08.2018 they borrowed a sum of Rs.1,12,000/- from the plaintiff. At the time the plaintiff received from the defendants to create pronote in the presence of two witnesses and also the defendants were put in sign in the above promissory note. After that they were not made any amount to the plaintiff as per the promise. So the plaintiff issued legal notice to the defendants to repay the debit amount. The above notice were received by the defendants. But they were not sent any reply notice or they were not made any amount to the plaintiff. Hence the plaintiff filed the pronote suit before this court against the defendants and at the same time also the plaintiff filed pronote executed by the defendants. After that the defendants object the pronote after filing the written statement. In these circumstances, this court conducted trial. The plaintiff was examined as PW.1 and Ex.A1 pronote was marked through PW.1. After DW.1 was examined at the stage of DW.1 cross this petition was filed by the petitioners. Hence petition may be dismissed with costs.

4) The learned counsel for petitioners argued that the plaintiff filed the suit against

the defendants for recovery of money. In which the defendants claim that the signature in the pronote is not of them and they want to prove it by way of signed document with admitted signature and the pronote and for the forensic examination. Hence pray for allowing this petition.

5) The learned counsel for respondent argued that the said 29.08.2018 pronote is valid and executed before the witnesses PW.2 and PW.3 and prayed for dismissal.

6) From the perusal of both side pleadings and documents it is clear that, the present petitioners are the defendants in the original suit. The plaintiff filed the suit against the defendants for recovery of money. In which the defendants claim that the signature in the pronote is not of them and they want to prove it by way of signed document with admitted signature and the pronote and for the forensic examination. For the said relief the defendant filed the interlocutory application 4/2025. On the side of respondent/plaintiff denied the claim and stated that the said 29.08.2018 pronote is valid and executed before the witnesses PW.2 and PW.3 and hence prayed for discriminating the application and further the respondent side submitted that the petitioners/defendants tries to delay the suit proceedings. Hence petitioner was filed only after examination of DW.1 and prayed for dismissal.

7) From the perusal it is clear that, from the inception itself the defendants denied the signature in the pronote to prove the signature in the pronote claiming the forensic expert opinion. In that they seeks permission to sign document of admitted signature to be compared with disputed signature in the pronote providing in opportunity to petitioners/defendants are must to prove his evidence. Therefore the petitioners/defendants only going to repay the amount if the suit claim proved, since the petitioners/defendants denied the signature and its execution from the beginning itself . Therefore provide an

opportunity to the petitioners just and necessary to allow this application. Hence, this petition is answered accordingly.

In final this petition is allowed to provide an opportunity to the petitioners and to send the documents to the Forensic Laboratory. The admitted signature in the defendants side Ex.B7, B8, B9 and B10 and also with the Ex.A15, A16 signature be compared with the signature found in the denied document of pronote. The Advocate Mr.M.Venkatesh, B.Sc.LLB, M.S.No.588/2022 is appointed as Commissioner. The said Advocate Commissioner shall receive the documents and submitted to the Forensic Laboratory at Madurai for the purpose of submitting the valued documents carefully and after get the opinion get back the same. The remuneration of Advocate Commissioner is fixed at Rs.10,000/- and Rs.5,000/- for the purpose of examination charges at Forensic Laboratory. It is directed that the petitioner shall pay the said remuneration directly to the Advocate Commissioner. For submission of Commissioner's report with opinion of handwriting expert 04.09.2025.

Dictated to the Steno-Typist, transcribed by her in computer, corrected and pronounced by me in open court, this the **05th day of August 2023.**

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

**Petitioners and Respondents side
Exhibits and Witnesses : Nil**

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