

this petition under section 45 of Indian evidence Act. The first petitioner contented that the respondent who is maternal uncle of her husband sekar, filed the suit for recovery of money based on the alleged debt deed dated 15.2.2019 against the petitioners along with his sister who is the 4th defendant in the original suit with false allegations and so the petitioners have hotly contesting the case. There was matrimonial dispute between the first petitioner and her husband, taking that the respondent and the parents of husband of the 1st petitioner have trying to grab his properties including the house property. The husband of the 1st petitioner died due to Corona. The petitioners succeeded his properties by way of inheritance. Again the respondent and the parents of Sekar have continuously trying to grab the properties. The respondent fraudulently created alleged debt deed dated 15.2.2019 and the signature of Sekar in the said alleged deed. The signature found in the debt deed is not the signature of Sekar. The 1st petitioner's husband Sekar has executed the registered power deed dated 3.5.2021 in favour of the 1st respondent in respect of his properties. She got the registration copy of power deed dated 3.5.2021 and marked as Ex.B1 through cross examination of 1st the respondent/PW1. The signature of the 1st petitioner's husband Sekar found in the Ex.B1 alone is genuine one. The signature of Sekar found in the Ex.A1 is not the signature of Sekar. Hence, in order to prove that the signature found in the alleged debt deed Ex.A1 dated 15.2.2019 is forgery the expert opinion is necessary one. So it is just and

necessary refer the case for comparison of the signature in both documents Ex.A1 and Ex.B1 by a handwriting expert, otherwise the petitioners will be serious and put to irreparable loss. So, this petition may be allowed.

(3) The 1st respondent/plaintiff contented that this petition is not maintainable either in law or on facts. The averment in affidavit of the petition that the respondent tried to grab the property is not correct and denied as false. This respondent fraudulently created the debt deed dated 15.2.2019 is also denied as false and defamatory. The signature found in the debt deed dated 15.2.2019 is signature of the deceased Sekar. There is no bonafide reason stated in the petition to compare the signature of deceased Sekar. This petition was filed only to drag on the proceedings. So, this petition is to be dismissed.

(5) Both side arguments and records considered. Since the money suit is based on the Ex.A1 debt deed, the respondent/plaintiff has to prove the signature found in the Ex.A1 is genuine. The petitioner/defendant disputed the signature of the executor of the debt deed. But the defendants themselves filed this petition to disprove the signature in the alleged debt deed. There is no sustainable objection raised by the respondent. 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 Ex.B1. Hence, this petition is allowed as prayed for. The Advocate Mr. K. SatishKumar is appointed as Commissioner. The said Advocate Commissioner shall receive

the documents Ex.A1 and Ex.B1 in a sealed envelope from this court and hand them over to the Forensic Science Laboratory and obtain the opinion of the handwriting expert. The remuneration of Advocate Commissioner is fixed at Rs.7500. It is directed that the petitioner shall pay the said remuneration directly to the Advocate Commissioner and the fee 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 1.9 .2023.

Dictated to the Steno-Typist, transcribed by her in computer, corrected and pronounced by me in open court, this the **8th day of August 2023.**

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

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

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

Order

I.A.No.126/2023 in

O.S.No: 150/2021

Dated: 8.8.2023