

IN THE COURT OF THE FIRST ADDITIONAL DISTRICT JUDGE,
TIRUNELVELI.

PRESENT: Thiru. D. SELVAM, M.L.
1st Additional District Judge,
Tirunelveli.

Monday, the 01st day of June 2026.

I.A. No. 04/2025 in O.S. No.99/2023

1. S. Sathyabaama
2. Vellammal

... Petitioners/Defendants 1 and 2

// Versus //

1. Jebin Daniel
2. Diwan Mydeen
3. Rahima Depathul Haier
4. Pathumuthu Sabaral

...Respondents/Plaintiff & Defendants No.3 to 5

This petition came up before this court on 29.04.2026 for a final hearing in the presence of Thiru. L. Iyyappan, Advocate for the Petitioners, and Thiru. S. Kanthimathinathan, Advocate for the 3rd and 4th respondents, and 1st and 2nd respondents' counter not filed and set exparte, and upon hearing both sides' arguments and upon perusing the records and having stood over till this date for consideration, this court delivers the following...

ORDER

1. The Petition filed under Order-26 Rule-10A of CPC and Section 73 of Bharatiya Sakshya Adhiniyam 2023, to appoint an Advocate Commissioner to send the admitted signatures with the disputed signature of the petitioner to the handwriting expert, Forensic Science Laboratory, Madurai for expert opinion.

2. The brief averments in the petition are as follows:-

The petitioner is the 2nd defendant of the suit. The respondent/plaintiff filed the suit for specific performance and other reliefs. The 2nd defendant contested the suit; specifically, she denied the sale agreement dated 07.09.2020 with the plaintiff's father Samuvel Ponraj. The petitioner had obtained the power of attorney and formed the layout and obtained the necessary permission from the local authorities and sold the house sites. Samuvel Ponraj died, and his son, the 1st plaintiff, came and informed the above-said fact and executed the necessary document to continue to sell the house sites as per the terms of his father's Power of Attorney. But the plaintiff filed the vexatious suit against the petitioners. At this stage, the petitioner denied the Doc. No. 1 dated 07.09.2020 Sale agreement and admitted the sale deed dated 19.10.2022 executed in favour of the 4th and 5th defendant. Hence, the petitioner filed this application to compare the admitted signatures with the disputed signature and send the documents to the handwriting expert, Forensic Science Laboratory, Madurai through the appointment of Commissioner. Hence, this petition is filed.

3. The brief averments of the counter filed by the 3rd and 4th respondents are as follows:-

The petition is not maintainable either in law or on the facts. The respondents denied the allegations contained in the affidavit, except for the admitted facts. The petitioners and the plaintiffs filed the petition in a collusive manner. Since the sale agreement dated 07.09.2020 is unregistered, it cannot be received as the document for

evidence. So, the application for the appointment of a commissioner to send the documents to the handwriting expert is not maintainable. Because the petitioners and the plaintiffs try to extract the property of these respondents unlawfully. Further, the respondents/plaintiffs ought to have proved the document in this case. At this stage, this petition is not maintainable. Hence, this petition may be dismissed with costs.

4. The 1st and 2nd respondents/plaintiffs have not filed any counter to oppose the petition and set exparte.

5. The Point for determination in the petition is:

Whether the petition can be allowed?

6. During the enquiry, no evidence was adduced, and no documents were marked on both sides.

7. Answer to the Point: -

(i) Heard both sides. This court carefully perused the affidavit, counter and case records.

(ii) On perusal of the records, the suit is filed for specific performance based on the sale agreement dated 07.09.2020. The suit is pending for trial. At this stage, the 2nd defendant filed this application and disputed the sale agreement and denied the signature and sought the order to send the alleged sale agreement to the handwriting expert with her admitted the signatures for comparison to Forensic Laboratory,

Madurai. Even though the 3rd and 4th respondents opposed the application, the plaintiffs have not opposed. Further, the 4th and 5th defendants filed the original sale deed dated. 19.10.2022 before this court as per the admitted signature of the petitioner/2nd defendant.

(iii) The petitioners denied the execution and signature found in the sale agreement dated 07.09.2020, and it would be compared through the handwriting expert; the suit relief will be decided without taking more oral or documentary evidence. So, this court would like to allow this application by the interest of justice. If the petition is allowed, the respondents have not suffered anything for deciding the suit on merits.

8. (i) In a result, this petition is allowed. Mrs. P. Gunavathi, B.Sc., B.L., Advocate, MS No. 3201/2015, J/o. Mr. K. Chelladurai, M.A., M.L., Advocate, Tirunelveli Bar Association, is appointed as Advocate-Commissioner of this petition.

(ii) The Commissioner has to receive the admitted signature documents (i) Sale deed dated 19.02.2022 (two documents stands in the name of 4th and 5th defendants) and the disputed unregistered sale agreement dated 07.09.2020 of this case from the court with sealed cover and go to Forensic Science Laboratory, Madurai, and hand over the documents to the Deputy Director, Regional Forensic Science Laboratory, Madurai and pay the required amount and get the acknowledgment, and submit the report before this court. After the readiness of the report, the Commissioner shall go

to the Regional Forensic Science Laboratory, Madurai, collect the report and hand it over to this court. Further, this court directs the petitioners to pay the necessary charges of Rs. 9,000/- for comparing documents to the Commissioner directly in cash.

(iii) This court fixed the remuneration of Rs. 10,000/-. The petitioners have to pay the amount to the Commissioner directly and submit the report of payment by 05.06.2026.

This order is directly dictated to the Steno-typist, typed by her in a computer, and corrected and pronounced by me in the open Court, on this the 01st day of June 2026.

1st Additional District Judge,
Tirunelveli.

The petitioners' side witnesses and documents: Nil

The respondents' side witnesses and documents: Nil

1st Additional District Judge,
Tirunelveli.

I Additional District Court,
Tirunelveli

DRAFT / FAIR ORDER

I.A No. 04/2025 in

OS No.99/2023

Dated: 01.06.2026