

IN THE COURT OF I ADDITIONAL DISTRICT JUDGE, TIRUNELVELI.

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

Friday, the 26th day of September 2025.

I.A. No. 07/2025 in O.S. No.425/2022

1. M.R.Paulraj
2. N.Sivakumar
3. S.Bhavani

... Petitioners/Defendants 1 to 3

// Versus //

1. K.Arunachalam
- 2.M/s. United M Sand Pvt. Ltd.
Thiruvananthapuram,
Kerala – 695611
rep by its Director, Arun S.R.
- 3.M/s. Kulapara Properties Pvt. Ltd.
Kollam, Kerala – 691 307
rep. By its Managing Director,
Ajai Sundaresh

...Respondents/Plaintiff & Defendants No.4 & 5

This petition came up before this court on 17.09.2025 for a final hearing in the presence of Thiru. R. Ramakrishnan, Advocate for the Petitioner and Thiru. R.Shankar, Advocate for the R-1 and Thiru. A.Mohamed Hussain, Advocate for the R-2 & R-3, 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. This petition has been filed by the Petitioner under Order-26 Rule-10 A of

CPC and Section 73 of Bharatiya Sakshya Adhiniyam to appoint an Advocate Commissioner to send the alleged sale agreement along with the original sale deed to the Deputy Director, Forensic Science Department, Madurai, to compare the signatures of petitioners/defendants No.1 to 3 found in the alleged sale agreement dated. 07.02.2022, Sale deeds dated. 04.04.2022 under Document No. 765/2022 and 766/2022 or other admitted signatures.

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

The 1st petitioner is the 1st defendant in the main suit. This petitioner has filed this affidavit on behalf of the other petitioners. The respondent/plaintiff has filed the suit for specific performance regarding the plaint schedule property, directing the defendants to execute the sale deed as per the terms of the sale agreement, dated. 07.02.2022 and delivery of possession to him. On date of the sale agreement, the 1st defendant obtained the advance amount of Rs. 11,00,000/- and handed over the original sale deeds. Even though the respondent/plaintiff is ready and willing to perform the sale agreement, the 1st defendant has lodged a complaint before the police and got the non-traceable documents of the original sale deeds and filed a case before the Hon'ble Madurai Bench of Madras High Court, Madurai, and obtained an order and sale deeds executed in favour of 4th and 5th respondents' name on 04.04.2022. Now, the main issue to be decided in this case is "Whether the petitioners signed the alleged sale agreement or not?" In this regard, to decide the main issue, it is essential to compare the signature found in the alleged sale agreement dated.

07.02.2022 with signatures found in the sale deeds Doc. No. 765/2022 and 766/2022 dated. 04.04.2022. Hence, this petition is filed.

3. The brief averments of the counter filed by the 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 have executed an unregistered sale agreement dated. 07.02.2022 and received a sum of Rs. 11,00,000/- by the 1st petitioner, and a sum of Rs. 21,00,000/- has been received by the petitioners No.2 and 3 out of the sale consideration amount of Rs 80 lakhs from the 1st respondent/plaintiff. The petitioners are well aware of the 1st respondent. The 2nd and 3rd respondents had obtained the property through the registered sale deeds from the 1 to 3 petitioners with the valuable consideration on 04.04.2022, and had the possession and enjoyment of the schedule properties is false and denied. Further, the alleged sale agreement dated 07.02.2022 was not created by forgery. The petition has been filed only to prolong the suit. The sale agreement is genuine and contains the signatures belong to the petitioners. Hence, the petition may be dismissed with costs.

4. The 4th and 5th respondents had not filed a counter.

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 and counter, and case records.

(ii) On perusal of the records, the suit is filed for the relief of specific performance based on the sale agreement, dated. 07.02.2022 to execute the sale deed and deliver the possession. As per the objection, the respondents /4th and 5th defendants obtained the sale deed from the petitioners / 1 to 3 defendants on 04.04.2022 and had the possession and enjoyment of the schedule properties.

(iii) At this stage, the petitioners/1 to 3 defendants took the plea that the alleged sale agreement dated. 07.02.2022 was not executed by them and sought the handwriting expert report after comparing the admitting signatures of the sale deed executed in favour of the 4th and 5th defendants with disputed signature of alleged sale agreement, dated. 07.02.2022.

(iv) As the above, this court holds that if the alleged sale agreement dated 07.02.2022 can be compared with the sale deeds executed by the petitioners in favour of the 2nd, 3rd respondents/4th, 5th defendants. If it is compared and obtained the report from the hand writing expert, the main issue of the genuineness of the sale agreement dated. 07.02.2022 is simply decided, to avoid the unnecessary controversy of this case by the interest of justice.

8. In the result, this petition is allowed. Ms. M. Maharasi, Advocate, MS No: 3854/2023, J/o. Mr. A. Selvaraj, Advocate, Tirunelveli Bar Association is appointed as Advocate-commissioner for the purpose of the petition. The commissioner has to receive the admitted signature documents (i) Sale deed no: 765/2022, Dated: 04.04.2022, (ii) i) Sale deed no: 766/2022, Dated: 04.04.2022, and disputed signature document (i) unregistered Sale agreement Dated. 07.02.2022 of the petitioners from the court with sealed cover and go to Forensic Science Laboratory, Madurai, and hand over the documents to the Director, Regional Forensic Science Laboratory, Madurai and pay the required amount and get the acknowledgment, and submit the report before this court. After the ready of the report, the commissioner shall go to the Regional Forensic Science Laboratory, Madurai, and collect the report and hand it over to this court. Further, this court directs the petitioners to pay the necessary charges for comparing the handwriting expert report after getting the details of payment particulars from the Regional Forensic Science Laboratory, Madurai. This court fixed the remuneration of Rs. 10,000/-. The petitioners has to pay the amount to the commissioner and submit the report by 10.10.2025.

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 26th day of September 2025.

I Additional District Judge,
Tirunelveli.

The petitioners' side witnesses and documents: Nil

The respondents' side witnesses and documents: Nil

I Additional District Judge,
Tirunelveli.

I Additional District Court,
Tirunelveli

DRAFT / FAIR ORDER

I.A No. 07/2025 in

OS No.425/2022

Dated: 26.09.2025