

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
TIRUVANNAMALAI.

PRESENT : Thiru.**P. Mathusuthanan**, B.A., B.L.,
Principal District Judge,
Tiruvannamalai

Wednesday, the 12th day of February- 2025

I.A.No.4/2024 in O.S.No.183/2021

Gayathiri		.. Petitioner/Plaintiff
	Vs	
Mageshwari		..Respondent/defendant

This Interlocutory Application has coming up before me for final hearing today (12.02.2025) and upon hearing the arguments of **Tr.M.Jayavel** Learned Advocate appearing for the Petitioner and **Tr.C.Asaithambi** , Learned Advocate appearing for the Respondent and upon perusing the available records and having stood over for consideration till this day, this court passed the following...

ORDER

The petitioner/ plaintiff filed this petition under Section 75 of Civil Rules of Practice to sendfor the documents morefully described in the schedule here under.

2) Brief averments in the petition are as follows:

The petitioner is the plaintiff in the suit and she filed the suit for recovery of due amount covered under the suit pronote. The suit pronote is marked as Ex.A1. The respondent/defendant is contesting the case by way of filing the written statement that the signature found on the suit pronote is not the signature of the respondent/defendant.

The petitioner filed the suit against respondent that she borrowed the amount and executed the suit pronote. The petitioner further submits that she has borrowed amount from the petitioner and executed the suit pronote. The petitioner submits after the receipt of the suit summon the respondent defendant had filed a written statement that the signature found on the suit pronote is not her signature and the same is forged and fabricated one.

The petitioner/plaintiff filed the suit to recover the amount covered under the suit pronote and to prove the signature and the due execution of the pronote she examined herself as the P.W-1 and the attester cum scribe as the P.W-2. But the respondent / defendant pleaded that the signature found on the suit pronote is not her signature and the same is the forged and fabricated one. Further to prove that the signature found on the pronote is the signature of the respondent. It is necessary to compare the admitted signature of the respondent with the disposed

signature found on the suit pronote. The signatures of the petitioner is in the registered document and the original document is in the office of the Subregistrar joint-II, Tiruvannamalai. Hence the signatures found on the original registered power of attorney deed can be very well compared with the disputed signature found on the suit pronote.

The respondent herein had executed a registered general power of deed on and the same has been registered as document No.10879/2021 of the office of the Sub-registrar, Joint-II, Tiruvannamalai. Further the signature found on the general power of attorney deed is contemporaneous with suit pronote.

The forgery in signature ordinarily could not be proved by way of oral evidence. Further in order to bring the truth to the light and to reduce the much of oral evidence and also to decide the case preciously it is just and necessary to appoint an advocate commissioner to take the documents for comparison of the signatures found on the original registered power of attorney deed with the disputed signature found on the suit pronote by the hand writing experts. Hence it is just and necessary to send for the document which is in the office of the sub-registrar joint-II, Tiruvannamalai. If the document more fully described in the schedule is send for from the registrar office and the signatures are compared it will be very useful to the court to save the time and also reduce the adducing the much of oral evidence and also to decide the case correctly. If the document

is come to this Hon'ble Court and the same can be easily send to the hand writing expert at Chennai. By way of allowing the send for petition the other side will not be prejudiced in any way but on the contra if the document is not send for and the signatures are not compared with the petitioner will be put to irreparable loss and hardship and the same cannot be equated.

If the petition is allowed the same will be very useful to this Hon'ble Court to decide the case and also will reduce the much of oral evidence. Hence in the interest of justice it is just and necessary to allow the petition and order for send for the document more fully described in the schedule. If the petition is not allowed the petitioner will be put to irreparable loss and hardship and the same cannot be equated by money value. Further the petitioner/ plaintiff is ready and willing to pay the necessary coping charges. Hence this petition.

3) Brief averments in the counter are as follows:-

The petition filed by the petitioner / plaintiff is vexatious and can only be seen as a ploy to delay the proceedings and has no merit. It is submitted that the petitioner is trying to deflect proceeding by bringing out new story in this petition

It is submitted that the petitioner in Para-2 of the petition wrongly claim as if the defendant has stated in her written statement that the signature found in the suit pronote is not her signature and the same is forged and fabricated one

and the petitioner further make a wrong statement in para 2 of her affidavit as if the defendant has denied the signature as forged and fabricated one and in para 2 of her affidavit as if the defendant has vehemently opposed and denied the signature on the pronote.

Only to prove the above stated denials the present petition is filed to call for the documents to match the signatures. The respondent nowhere in the written statement nor during cross examination questioned about the signature in the suit pronote but it is the defense of the respondent that she never borrowed any loan from the plaintiff and she never executed any pronote in favour of the plaintiff in the presence of so called attestor or scribe.

While the respondent did not raise any specific question with respect to the signature on the pronote, the petitioner has filed the present petition is devoid of merit. The petitioner has filed the petition with totally irrelevant, baseless and false stories and the respondent vehemently denies and objects the petition and the respondent further states that the petitioner has come up with these new imaginary stories only to divert this Hon'ble court and delay the case from being disposed earlier and more specifically to delay the earlier disposal of the petition under Order 16 Rule 1 filed by the respondent to call for the witnesses.

In order to avoid the case being disposed of by this Hon'ble court, the petitioner is resorting to delaying tactics by filing the present petition. In the

above circumstances the present petition is neither just and necessary nor relevant at the present situation of the case. Hence, requested to dismiss the petition.

4) **Point that arises for consideration in this Petition is that**

Whether this petition is to be allowed as sought for?

5) Point: The learned counsel appearing for the petitioner would submit that since Ex.A1 was disputed by the respondent as fabricated one, he wants to prove the signature found in the Ex.A1 with admitted signature of the respondent, hence he argued for allowing this petition to send for the registered General power of deed dated 05.10.2021 containing the admitted signature of the respondent, hence, he argued for allowing the petition.

6) **Per contra**, the learned counsel appearing for the respondent would submit that since the signature of the respondent found in the pronote was not questioned by the respondent throughout the written statement, the comparison of signature with admitted signature of the respondent in any other document is nothing but unnecessary exercise and drag on the proceedings, hence he argued for dismissal of the petition.

7) **Heard. Perused the records.**

8) Having considered the reason set out in the petition and the submission of the learned counsel appearing for the petitioner and the defence of the

respondent in the main suit disputing the genuinity of the Ex.A1 and by accepting the contention of the petitioner, this court deem appropriate to allow this petition to sendfor the document i.e registered General Power of deed dated 05.10.2021 on the file of Sub registrar, Joint-II, Tiruvannamalai, thus this court is inclined to allow this petition and thus the point is answered accordingly.

In the result, the petition is allowed. No cost. Issue sendfor summon for production of document. Batta in 3 days.

This Order is dictated by me to the Stenographer Grade-I of this Court, transcribed by her in Computer, corrected and pronounced by me in open court, this the 12th day of February- 2025.

**Principal District Judge,
Tiruvannamalai.**