

IN THE COURT OF SUBORDINATE JUDGE : LALGUDI

Present : Tmt.R.Mohana, B.L.,

Subordinate Judge, Lalgudi

Dated Thursday, the 04th day of June - 2026

I.A No.79/2018 OS.No.73/2018

(CNR.No.TNTP180007472017)

R. Irudhayasamy

.....Petitioner/Defendant

- Vs -

S. Babu

....Respondent/Plaintiff

This petition came up before this court for final hearing on 15.04.2026 in the presence of the Learned Counsels Thiru.S.Martin - advocate for the petitioner and of Thiru.P.Kanagaraja - advocate for the respondent and upon perusing the case records and having stood over for consideration before this court till this day, today this court hereby delivers the following. . .

ORDER

The Petitioner has filed this Petition Under order 26 Rule 1 and 2 R/W section 151 and R/W section 73 of CPC, pleaded to pass an order of appoint an Advocate/Commissioner and directing him to take his admitted signature and take the suit promissory note and verify with an expert and directing him to give detailed opinion along with expert's opinion.

2. The brief averments of the Petition -

The petitioner is the defendant in the main suit. The plaintiff has filed a suit against this petitioner for recovery of money. The petitioner have not borrowed any money from the plaintiff and the plaintiff is not known to this petitioner. The respondent has forged the petitioner's signature. With the permission of this Hon'ble Court the petitioner have examined the promissory note filed by the plaintiff. The signature in the promissory note is not this petitioner. Hence, the petitioner want to send the signature in the promissory note to expert opinion. Unless, the petitioner signature is verified by an expert, the petitioner will be put to irreparable loss and hardship. Hence, the petitioner admitted signature may be verified with signature in the promissory note. For sending expert opinion advocate commissioner may be appointed and he may take the petitioner admitted signature and take the pronote and verify the same with the expert and give detailed opinion. Unless the commissioner is appointed, the petitioner will be put to severe loss and injury. Hence, this petition.

3. Gist of Counter -

All the allegations except those that are specifically admitted herein are denied as false and the petitioner is put to strict proof of the same. The petition is not at all maintainable under Law and on fact. The allegations that the petitioner has not executed the pro-note to the Respondent, that the signature in the pronote is rank forgery, that the pronote has to be sent for to the expert to find out the age of pro-note, stroke of the

signature and also to compare the signature of the petitioner in the pronote along with other specimen signatures available before this Court, that unless the same is permitted the petitioner will be put to irreparable loss and mental agony are all stoutly denied as false and the petitioner is put to strict proof of the said imaginary allegations. The allegations in the petition are self contradictory. The petition is a prematured and baseless one. The prayer in the petition cannot be granted in view of the dictum of the Apex Court and the High Courts. The petitioner has not complied with the statutory requirements contemplated. This Hon'ble Court is empowered under section 73 of the Indian Evidence Act to compare the signature found in the pronote along with the contemporary admitted signature if any to be produced before this Court. The petitioner has not entered the box to deny his signature and as such this application is superfluous and unsustainable. There is no occasion for the petitioner to legally peruse the signature in the pronote and as such unless he enters into the witness box and deny the signature and prove that the same is not his signature and unless he produces admitted, contemporary signatures, there is no question of referring the issue to an expert. The prayer contemporary signatures, there is no question of referring the issue to an expert. The prayer in the petition is far fetching and cannot be granted for mere asking. In any event, the petition is not at all sustainable under law and is liable to be dismissed. The petition is nothing but an attempt to drag the trial as far as possible and vex the

complainant. It is therefore, prayed that this Court may be pleased to dismiss the petition with compensatory.

4. There is no oral and documentary evidence let in by both sides. Available case records perused.

5. Whether the Petitioner has made out a sufficient cause for the appoint an Advocate Commissioner?

6. It is argued by the Learned Counsel for the Petitioner/Defendant argued that the suit promissory note dated 05.09.2010 is a complete fabrication and a rank forgery, as the Present Petitioner who has never borrowed any money from the Respondent/Plaintiff nor executed any such document in his favor. To establish this fraud conclusively, the Petitioner has filed the present application to refer the disputed signature on the promissory note to a scientific handwriting expert for comparison with his admitted signature found upon a Registered Sale Deed executed in 21.06.2010. It is a well-settled principle of forensic science that a person's handwriting varies over time, and therefore, comparison must ideally be conducted using contemporaneous documents. The Registered Sale Deed offered by the Petitioner was executed just three months prior to the alleged promissory note. Furthermore, because it is a registered public instrument executed before a Sub-Registrar, it carries a high legal presumption of genuineness and eliminates any possibility that the Defendant manufactured the comparison signature to escape liability in this suit. Forgery cannot be determined accurately by a layperson, and

obtaining a scientific opinion under Section 45 of the Indian Evidence Act is essential to aid this Honorable Court in reaching a just and objective conclusion. Sending the documents for analysis at this stage will cause absolutely no prejudice to the Plaintiff, and the Petitioner/defendant is fully prepared to bear the entire cost of the expert commission. Therefore, in the interest of justice and to prevent a grave miscarriage of justice, it is prayed that this Honorable Court may be pleased to allow the application as prayed for.

7. The Learned Counsel for the Respondent/Plaintiff strongly objects that this application is legally flawed, entirely premature, and filed with the sole mala fide intention of delaying the trial proceedings of the suit. The suit is in the stage of cross examination of PW1 and the evidence of the case to be recorded and the Petitioner has failed to satisfy the fundamental statutory requirements contemplated under Section 73 of the Indian Evidence Act. While Section 73 of the Act permits a comparison of signatures, such a stage only arises during the trial when the documents are formally marked as evidence and the parties are subjected to examination. The Defendant has not yet entered into the witness box to deny his signature under oath or face cross-examination, and until he establishes his personal credibility on the stand, he cannot seek the assistance of a forensic expert to create evidence in his favor. The present application is an attempt by the Defendant to evade cross-examination and use an expert report as a shield. If the Defendant fails to stand his ground during cross-examination,

the expense and time of a forensic analysis would be rendered completely redundant. On these grounds, the petition is completely devoid of merit and is liable to be dismissed with exemplary costs.

8. This Interlocutory Application is filed by the Petitioner/Defendant under Order 26 Rule 10 CPC, praying to send the disputed suit promissory note dated 05.09.2010 along with an admitted Registered Sale Deed dated 21.06.2010 to a handwriting expert for the comparison of signatures through Advocate/Commissioner for getting expert opinion report. The Plaintiff filed the main suit for the recovery of money based on the said promissory note, which the Defendant has vehemently resisted in his Written Statement, asserting that the document is a forgery and that he never executed it. The Respondent/Plaintiff has strongly opposed this application, contending that it is premature at this stage and arguing that the Defendant must first step into the witness box to deny his signature on oath before an expert can be appointed.

9. After considering the arguments from both sides, this Court finds that allowing a scientific comparison at this stage is highly practical and serves the ends of justice. While the Plaintiff insists that the cross-examination of PW1 must proceed uninterrupted, forcing the Defendant to finish cross-examining PW1 without the expert report would be unfair. If the document is sent to an expert later, the Defendant will inevitably have to file another application to recall PW1 for further cross-examination once the report arrives. That would split the trial into multiple pieces and cause much

longer delays. Getting the expert opinion now ensures that all relevant scientific facts are on the table while the Plaintiff's evidence is being recorded.

10. The comparison document provided is a Registered Sale Deed dated 21.06.2010, signed just three months before the disputed promissory note dated 05.09.2010. Being a registered public document, it carries a strong presumption of being genuine and is a reliable baseline for comparison. A handwriting expert's opinion is an objective tool to help the Court determine forgery, and it will not cause any prejudice to the Plaintiff, who still carries the ultimate burden to prove his case. To keep the valuable original court records safe during transit, it is proper to appoint an Advocate Commissioner.

11. Furthermore, Disallowing this petition would defeat the ends of justice and unnecessarily delay the speedy disposal of the suit. Consequently, the Interlocutory Application is hereby allowed. It is ordered that the disputed Promissory Note dated 5th September 2010 and the admitted Registered Sale Deed dated 21st June 2010 be sent to the Forensic Science Laboratory (FSL) or a designated Government Handwriting Expert in a secure, sealed cover through an Advocate Commissioner appointed of this Court. The Expert is directed to compare the signatures of the Petitioner/Defendant on both documents and submit a detailed report to this Court. The Petitioner/Defendant is directed to bear the requisite expert fees and transit expenses. Both parties shall be at liberty to file their objections, if any, once the expert report is received, and may

examine or cross-examine the expert during the trial.

In the result, this Petition is allowed. No cost. Tr.V.Rajesh, M.S.No.76/2019 Who is appointed as Advocate/ Commissioner. The Advocate Commissioner shall take the original disputed Promissory Note dt.05.09.2010 and the original Registered Sale Deed dt.21.06.2010 from the safe custody of this Court and personally deliver them to the Forensic Science Laboratory (FSL) / Government Handwriting Expert. The Handwriting Expert is directed to compare the signatures, prepare a detailed report, and hand it back to the Advocate Commissioner in a sealed envelope. The Remuneration of Advocate/Commissioner is fixed as Rs.10,000/- to be borne & paid by the petitioner directly to the Advocate/ Commissioner. The petitioner/ defendant is directed to bear the fees for the expert and Advocate/Commissioner. Await expert opinion by 07.07.2026

Dictated to steno-typist, typed by her directly in computer, corrected and pronounced by me in open court on this the **04th** day of **June 2026**.

SUB JUDGE
LALGUDI.

List of Documents

Petitioner side witness and document - Nil

Respondent side witness and document - Nil

SUB JUDGE
LALGUDI.

Sub Court, Lalgudi
IA.No.79/2018 in OS.No.73/2018
Fair/ Draft Orders
Dated – 04.06.2026