



CMP(MD). No.741 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 28/04/2026

CORAM

THE HONOURABLE MR. JUSTICE P.B. BALAJI

CMP(MD). No.741 of 2022 and
SA(MD)No.55 of 2022

1. Kali @kalikumar
2. Sivamanikandan
3. Maheshkumar

... Petitioners

Vs

1. Radhamani @mani
2. Sundaravel

... Respondents

PRAYER :- To appoint an Advocate Commissioner to compare the signature and Thumb impression of K.Pramasivan Chettiyar in Ex.B1 sale deed dated 20-03-1981 with the admitted signature and thumb impression of K.Paramasivan Chettiyar available in Ex.A12 to Ex.A19 by sending the documents to the Hand writing expert, pending disposal of the above Second Appeal.

For Petitioners : M/s.M.Thirunavukkarasu,
Advocate.

For Respondent No.1: Mr.R.J. Karthick



CMP(MD). No.741 of 2022

ORDER

WEB COPY

Heard the arguments advanced by the learned counsel appearing on either side.

2. The learned counsel appearing for the petitioners/appellants invited my attention to the petition filed for appointment of an Advocate Commissioner, which has been filed along with the second appeal itself in the year 2022. The said application has been filed under Order XXVI Rule 10-A CPC r/w Section 73 of the Indian Evidence Act, seeking appointment of a Commissioner for the purpose of taking the original Ex.B1 sale deed dated 20.03.1981 and having it compared with the admitted signatures and thumb impressions of K. Paramasivam Chettiyar available in registered documents viz., Exs.A12 to A19. The dispute is only with regard to the signature. The comparison is sought between the signature in Ex.B1 and the admitted signatures found in Exs.A12 to A19, by directing the Advocate Commissioner to take the original documents from the Registry of this Court to a handwriting expert and obtain an opinion.



CMP(MD). No.741 of 2022

3. The learned counsel appearing for the respondents strongly opposed the said application, contending that the application for comparison of the disputed signature has been filed for the first time at the stage of the second appeal and that such a belated exercise is not permissible. He further submitted that comparison is sought even with unregistered documents, the authenticity of which is disputed by the contesting respondents, and therefore prayed for dismissal of the petition.

4. I have carefully considered the submissions advanced by the learned counsel appearing on either side.

5. As rightly contended by the learned counsel for the appellants, they did not have any occasion to file such an application before the trial court or the first appellate court, since even in the plaint, the appellants had clearly denied the execution of Ex.B1 sale deed, under which alone the contesting respondents claim right, title, and interest. The contesting respondents, having succeeded before the trial court and the first appellate court, ought to have taken steps to prove the genuineness of



CMP(MD). No.741 of 2022

Ex.B1, especially when its execution had been specifically denied in the plaint. However, the first appellate court reversed the findings of the trial court, as against which the present second appeal has been filed. Along with the second appeal, the present application under Order XXVI Rule 10-A CPC has also been filed. There is no counter filed to the said application till date.

6. This Court is inclined to permit comparison of Ex.B1 with admissible documents, viz., Exs.A13 and A14 alone, which are official documents in which the signature of the deceased Paramasivam Chettiayar cannot be disputed. The other documents, being wills and unregistered powers of attorney, may not be appropriate to be sent for comparison. Exs.A13 and A14 are also reasonably contemporaneous to Ex.B1- sale deed, and therefore, the signatures during the relevant period may not have varied significantly.

7. In view of the above, Mr. P. Suresh (Enrol. No. 3253/2019), No. 16, Lawyers' Chambers, High Court Buildings, Madurai – 23 (Mobile



CMP(MD). No.741 of 2022

No.8778811379), is appointed as Advocate Commissioner to take the original documents to the Forensic Department, Madurai, for the purpose of comparing the signature in Ex.B1 with those in Exs.A13 and A14. The Registry shall hand over the said documents to the Advocate Commissioner on or before 30.04.2026. The Advocate Commissioner shall, in turn, hand over the same to the Forensic Department for comparison. The Forensic Department shall submit its report to the Advocate Commissioner along with the original documents in a sealed cover.

8. The initial remuneration of Rs.15,000/- (Rupees Fifteen Thousand only) shall be paid by the appellants to the Advocate Commissioner.

9. This petition is ordered accordingly. Post the Second Appeal for further arguments on 15.06.2026.

28.04.2026

TRP

5/5