



2024/KER/19990

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

&

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

FRIDAY, THE 15<sup>TH</sup> DAY OF MARCH 2024 / 25<sup>TH</sup> PHALGUNA, 1945

OP (FC) NO. 160 OF 2024

AGAINST THE ORDER DATED 20.10.2023 IN OP NO.1759 OF 2012

OF FAMILY COURT, ERNAKULAM

PETITIONER/PETITIONER/PLAINTIFF:

THOMAS P.O  
AGED 52 YEARS, S/O P.T OUSEPH,  
PATHIPARAMBAN HOUSE,  
KORATTY P.O, PIN - 680338

BY ADV THOMAS P.O (Party-In-Person)

RESPONDENTS/RESPONDENTS/RESPONDENTS:

- 1 NADINE VINCENT  
AGED 44 YEARS, D/O. VINCENT, 6B,  
GOLDEN RESIDENCY KADAVANTHRA, PIN - 682020
- 2 KOCHURANIVINCENT  
AGED 68 YEARS, W/O VINCENT, 6B,  
GOLDEN RESIDENCY KADAVANTHRA, PIN - 682020
- 3 P.T THOMAS  
AGED 68 YEARS, S/O JOSUA, 11A,  
GOLDEN RESIDENCY KADAVANTHRA, PIN - 682020
- 4 ANNAMMA THOMAS  
AGED 66 YEARS, W/O THOMAS, 11A,  
GOLDEN RESIDENCY KADAVANTHRA, PIN - 682020

THIS OP (FAMILY COURT) HAVING COME UP FOR ADMISSION  
ON 15.03.2024, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



## J U D G M E N T

Dated this the 15<sup>th</sup> day of March, 2024

C. Pratheep Kumar, J.

This petition is filed by the petitioner in I.A. No.1 of 2023 in OP.No.1759/2012 on the file of the Family Court, Ernakulam against the order dated 20.10.2023, dismissing the above application.

2. Petitioner is the plaintiff in the above OP filed by him against his wife, praying for declaration that the Sale Deed No.451/2012 in favour of the defendants does not bind him and for re-conveying the above property in his favour. In order to prove his case, he has produced Exhibit P3 receipt before the Family Court, allegedly executed by his wife. At the instance of the petitioner, Exhibit P3 receipt was sent for examination by a handwriting expert at the Forensic Science Laboratory (FSL) Thiruvananthapuram, as per Exhibit P4 order. After examination, the Director, FSL, Thiruvananthapuram sent Exhibit P5 report to the Family Court stating that *“The person, who wrote the blue enclosed standard items stamped and marked A<sub>1</sub> to A<sub>4</sub>, S<sub>1</sub> to S<sub>50</sub> and S<sub>1(A)</sub> to S<sub>20(A)</sub> did not write the red enclosed questioned item similarly stamped and*



marked  $Q_1$ ". Dissatisfied with the above order, he had filed I.A. No.1 of 2023 praying for setting aside the FSL report.

3. One of the contentions raised by the petitioner is that the disputed signature is on Revenue Stamp while the sample signature was taken on plain paper and it has affected the result of examination. It is true that the disputed document is a receipt affixed with two revenue stamps and the alleged signatures of the respondent appears partly on the two revenue stamps. However, about half portion of both the signatures alone are seen outside the revenue stamp. In other words, the first part of signature on the first revenue stamp and the second part of the signature on the second revenue stamp were affixed outside the revenue stamp on plain paper. The FSL report, in clear terms states that the disputed signatures does not belong to the respondent.

4. Another contention taken by the petitioner is that the specimen signatures were not taken in his presence. In this case the contemporary documents sent for examination along with specimen signatures includes the power of attorney executed by the respondent on 28.2.2006. It contains her signature in all the three pages. The



other sample signatures were taken in white paper by the Family Court. We do not find any reasons to suspect the correctness of the sample signatures collected by the Family Court for the purpose of examination.

5. The petitioner would further contend that he disputes even the admitted signatures of the respondent sent for examination. He would also contend that the respondent signs differently at different times. However, it is to be noted that he has not raised such a contention before the Family Court when I.A.No.1 of 2023 was considered.

6. Moreover, it is to be noted that though the FSL report was called for at his own instance and it was received before the Family Court as early as in May 2019, he has filed the application to set aside the FSL report only in the year 2023. In the meantime, the OP was dismissed for default and finally it was restored after condoning long delay by this Court, in OP(FC) 24 of 2023. If there was any *bona fides* on the part of the petitioner, he would have filed objection to the FSL Report and applied for setting aside the said report immediately after the report was filed.



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7. Even now, at the time of evidence he will get opportunity to examine the expert, who prepared the report, if he so chooses and bring out defects, if any, in the report. At this stage, we do not find any valid grounds to interfere with the reasoned order passed by the Family court and as such this OP is liable to be dismissed.

In the result, this OP(FC) is dismissed.

Sd/-  
ANU SIVARAMAN,  
JUDGE

Sd/-  
C. PRATHEEP KUMAR,  
JUDGE

sou.

APPENDIX OF OP (FC) 160/2024PETITIONER EXHIBITS

- EXHIBIT P1 CERTIFIED COPY OF THE ORDER PASSED BY THE THE HON'BLE FAMILY COURT ERNAKULAM, IN IA 1/2023 IN OP 1759/2012 DATED 20-10-2023
- EXHIBIT P2 TRUE COPY OF THE MEMORANDUM OF ORIGINAL PETITION IN O.P NO. 1759/2012 BEFORE FAMILY COURT ERNAKULAM DATED 20/09/2012
- EXHIBIT P3 TRUE COPY OF THE QUESTIONED RECEIPT (Q1) SIGNED BY THE FIRST RESPONDENT ON THE REVENUE STAMP DATED 30/12/2006 BEFORE THE FAMILY COURT, ERNAKULAM
- EXHIBIT P4 TRUE COPY OF THE ORDER IN IA 218/2017 DATED 31/01/2017 PASSED BY THE FAMILY COURT ERNAKULAM
- EXHIBIT P5 TRUE COPY OF THE FSL REPORT DATED 22/05/2019 ALONG WITH ADMITTED STANDARD SIGNATURES (A2TOA4) OCCURRING IN THE POWER OF ATTORNEY DATED 28/06/2006, SPECIMEN SIGNATURES S1(A) TO S20(A) AND S21 TO S50 AND STANDARD WRITINGS MARKED A1 AND SPECIMEN WRITINGS S1 TO S20
- EXHIBIT P6 TRUE COPY OF THE BASIC PRINCIPLES OF FORENSIC SCIENCE
- EXHIBIT P7 TRUE COPY OF THE REPORT MADE BY CLINICAL PSYCHOLOGIST DR.SANDEESH P.T ATTACHED TO GOVT. GENERAL HOSPITAL ERNAKULAM DATED 23/04/2013 AS PER THE DIRECTION OF CJM COURT ERNAKULAM IN MC 1/2012
- EXHIBIT P8 TRUE COPY OF THE SIGNATURE OF THE 1ST RESPONDENT IN MARRIAGE CERTIFICATE ISSUED BY VICAR OF ST.DOMENIC CHURCH, ALUVA WHEREIN MARRIAGE WAS SOLEMNIZED ON 7/7/2002



- EXHIBIT P9 TRUE COPY OF THE SIGNATURE OF THE 1ST RESPONDENT IN THE THUMB IMPRESSION REGISTRY OF THE SRO ERNAKULAM IN CONNECTION WITH THE SALE DOCUMENT 451/2012 DATED 01/02/2012
- EXHIBIT P10 TRUE COPY OF THE SIGNATURE OF THE 1ST RESPONDENT IN THE THUMB IMPRESSION REGISTRY OF THE SRO EDAPPALLY IN CONNECTION WITH THE SETTLEMENT DEED NO 2938/2012 DATED 04/08/2012
- EXHIBIT P11 TRUE COPY OF THE SIGNATURE OF THE 1ST RESPONDENT IN THE THUMB IMPRESSION REGISTRY OF THE SRO: EDAPPALLY IN CONNECTION WITH THE SALE DOCUMENT 790/I/2017 DATED 23/03/2017
- EXHIBIT P12 TRUE COPY OF THE REPLY OF RTI APPLICATION FROM FAMILY COURT ERNAKULAM DATED 03/01/2024
- EXHIBIT P13 TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER DATED 26/09 /2023
- EXHIBIT P14 TRUE COPY OF THE IA 1/2023 IN OP NO. 1759/2012 FILED BY THE PETITIONER DATED 26/09/2023 TO SET ASIDE THE REPORT AND FOR DIRECTING THE RESPONDENT TO SEND THE SAMPLES FOR FSL TEST IN ACCORDANCE WITH LAW