

THE HON'BLE SRI JUSTICE K.C.BHANU

CIVIL REVISION PETITION No.5130 OF 2012

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is directed against the order and decree, dated 21.08.2012, in Interlocutory Application No.177 of 2012 in Original Suit No.420 of 2011 passed by the Principal Junior Civil Judge, Guntur, whereunder and whereby, application filed under Section 45 of the Indian Evidence Act, 1872 to send the suit promissory note, dated 24.02.2010, endorsement, dated 04.09.2010 made on it along with the admitted signatures of the petitioner/defendant herein made on vakalat and written statement to handwriting expert for comparison and opinion, was dismissed on the ground that the petition was filed at a belated stage and contemporaneous signatures were also not available.

2. Learned counsel appearing for the petitioner contended that the plea of the petitioner is that his signature was forged on the promissory note as well as endorsement made on it; that the petitioner is ready to file contemporaneous documents for comparison of disputed signatures made on the promissory note and hence, he prays to allow the revision petition.

3. On the other hand, learned counsel for the respondent contended that at the stage of arguments, the petitioner filed the present application only to drag on the proceedings and there are no *bona fides* on the part of the petitioner and hence, he prays to dismiss the revision petition.

4. The impugned order is silent with regard to the date on which the evidence on behalf of the petitioner/defendant herein was closed. The

plea of the petitioner is that he did not sign on the promissory note as well as endorsement made on it. When the suit was posted on 23.01.2012 for further evidence of the petitioner, the present application was filed on 27.01.2012. Therefore, there was absolutely no delay in moving the present application. Since the plea of the petitioner from the beginning is that the signature on the promissory note and endorsement made on it are forged, the trial Court ought to have allowed the petition. Therefore, the impugned order is liable to be set aside.

5. Accordingly, the Civil Revision Petition is allowed setting aside the order, dated 21.08.2012, in Interlocutory Application No.177 of 2012 in Original Suit No.420 of 2011 passed by the Principal Junior Civil Judge, Guntur, and consequently, Interlocutory Application filed by the petitioner is allowed. The trial Court is directed to send the disputed document namely promissory note and the endorsement made on it to the handwriting expert along with the admitted signatures of the petitioner found in the written statement and the vakalat for comparison and opinion. The petitioner is also directed to file contemporaneous signatures, if any, before the trial Court. Before sending the said documents to handwriting expert, the petitioner is directed to deposit an amount of Rs.20,000/- towards expert fee before the trial Court within a period of two (2) weeks from the date of receipt of a copy of this order, failing which the C.R.P. shall stand dismissed.

On such deposit, the trial Court shall send the documents to handwriting expert for comparison and opinion. However, if the handwriting expert claims that his fee is less than the amount deposited by the petitioner, the remaining amount shall be returned to the petitioner. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand closed.

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DATE: 20.02.2015

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