

HON'BLE SRI JUSTICE R.KANTHA RAO

Civil Revision Petition No.2538 of 2015

Order:

Heard Sri A.K. Kishore Reddy, learned counsel appearing for the petitioners and Sri E.V.V.S. Ravi Kumar, learned counsel appearing for the respondent.

2. This civil revision petition is filed against the order dated 08-6-2015 in I.A.No.640 of 2015 in O.S.No.138 of 2013 passed by the learned IV Additional District Judge, Kakinada, East Godavari district.

The revision petitioners are the defendants in the suit for promissory note. In the course of trial, after some witnesses were examined, the petitioners filed I.A.No.640 of 2015 under Section 45 of the Indian Evidence Act to send the promissory note (Ex.A-1) to a handwriting expert to ascertain as to whether there is material alteration in the promissory note by overwriting in the figures relating to the amount and also of the date.

The defendants took a specific plea in the written statement that the promissory note was subjected to material alteration and therefore, the suit which is filed basing on the said promissory note is liable to be dismissed.

3. The trial Court in its order accepted the contention that Ex.A-1 clearly discloses that the figure mentioned in cash column as "9" but there is an overwriting and similarly it relates to date as "19". However, the trial Court expressed the view that since the body of the promissory note does not contain any overwriting or interpolation in relation to the letters, the promissory note need not be sent for the opinion of the handwriting expert. Accordingly, the trial Court dismissed the application.

4. The learned counsel appearing for the petitioners contends that the trial Court having observed that there is overwriting in relation to the aforementioned letters ought to have sent the suit promissory note to the handwriting expert as required in the application.

5. This Court is of the view that the trial Court clearly recorded a finding that there is no interpolation or overwriting in relation to the letters in the promissory note, which need not be sent for handwriting expert. Since the trial Court accepted the contention raised by the petitioners that there is overwriting, as rightly observed by the trial Court, absolutely there is no necessity to send the promissory note to the handwriting expert. The civil revision petition, therefore, is dismissed. The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

R.KANTHA RAO, J.

06th October, 2015.

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