

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Civil Revision Petition No.193 of 2015

Dated 13th February, 2015

Between:

Panam Venkat Reddy (died) and others

...Petitioners

And

G.Ramachandra Reddy

...Respondent

Counsel for the petitioners: Sri Ramachandra Rao Gurram

Counsel for the respondent: Sri Ch.Lakshmi Narayana

The Court made the following:

ORDER:

This civil revision petition arises out of order, dated 09.12.2014, in I.A.No.1261 of 2013 in O.S.No.647 of 2012, on the file of the learned VII Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar.

I have heard Sri Ramachandra Rao Gurram, learned counsel for the petitioners, and Sri Ch.Lakshmi Narayana, learned counsel for the respondent.

The respondent filed the above-mentioned suit against one Panam Venkat Reddy, who was shown to have been died in the suit as represented by his wife, Vijaya Lakshmi, and his father, Panam Baskara Reddy, for recovery of a sum of Rs.7,10,000/- with interest at 24% per annum on the foot of a promissory note, dated 06.06.2010, allegedly executed by the deceased Panam Venkat Reddy.

It is the pleaded case of the respondent that while Panam Venkat Reddy executed the promissory note, his father i.e., defendant No.2, has attested the same. The wife of Panam Venkat Reddy and

defendant No.2, who are the petitioners herein, have filed their written statement denying execution of the promissory note by the deceased Panam Venkat Reddy. The petitioners have filed I.A.No.1261 of 2013 under Section 45 of the Indian Evidence Act, 1872 for sending the suit promissory note to handwriting expert for comparison of the signatures contained therein with those contained in the registered gift deeds, dated 16.07.2008 and 13.02.2012.

(At the hearing, Sri Ramachandra Rao Gurram, learned counsel for the petitioners, submitted that the description of these documents as registered sale deeds and the date of the document dated 13.02.2012 as mentioned in the prayer portion of I.A.No.1261 of 2013 as 13.02.2013 are mistakes.)

The respondent filed a counter affidavit, wherein it is *inter alia* stated that petitioner No.2 is habituated to sign differently at different times and that in case the Court exercises the discretion for sending the documents for the opinion of the handwriting expert, the five documents mentioned in the counter affidavit may also be sent for comparison.

The lower Court by order, dated 09.12.2014, has dismissed the said application. A perusal of the order of the lower Court would show that the main reason for which it has declined the request of the petitioners for sending the documents to the handwriting expert is that the suit promissory note is of the year 2007 and there are no admitted signatures contemporaneous to the disputed signatures on the suit promissory note.

The petitioners have filed a copy of the deposition of the respondent, who was examined as PW.1. In the cross-examination, Exs.B1 and B7, which are registered gift deeds that were sought to be sent for handwriting expert's opinion for comparison, were admitted by PW.1. Ex.B1 is dated 16.07.2008 which shows that the document came into existence about two years before the alleged execution of the suit promissory note. Ex.B7 is dated 13.02.2012 and the gap

between the suit promissory note and the said document is less than two years. The lower Court has completely overlooked the availability of these two documents, the signatures on which have not been disputed by PW.1 in his cross-examination, and proceeded on a thoroughly erroneous premise that there are no admitted signatures contemporaneous to the suit promissory note. Indeed, the lower Court has committed a serious error in thinking that the suit promissory note is of the year 2007, while as noted above it was of the year 2010. In my opinion, the approach of the lower Court is highly unsound and erroneous.

For the above-mentioned reasons, the order under revision is set aside. I.A.No.1261 of 2013 is allowed. The lower Court is directed to take steps to send the suit promissory note for comparison with the signatures in Exs.B1 and B7, subject to the petitioners depositing the required expenditure in this regard.

The civil revision petition is accordingly allowed.

As a sequel to disposal of the civil revision petition, C.R.P.M.P.No.226 of 2015 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

13th February, 2015
VGB