

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Civil Revision Petition No.4402 of 2011

Date: 23-01-2015

Between:

Gem Feeds Private Limited, represented by its

General Power of Attorney Agent, Nellore.

.. Petitioner

AND

Leburu Maheswara Reddy @ Leburu Mahesh Reddy

.. Respondent

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Civil Revision Petition No.4402 of 2011

ORDER:

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This Civil Revision Petition is filed against the order dated 13-09-2011 in I.A.No.504 of 2011 in O.S.No.201 of 2009 on the file of Principal Senior Civil Judge, Nellore, dismissing the petition filed under Section 45 of the Indian Evidence Act, 1872 for sending Ex.A.1-disputed document to the Handwriting Expert for comparison of signature therein with the specimen writings and signatures of the respondent obtained in open court at the time of cross-examination of DW.1

2. The Court below dismissed the said application mainly on the ground that the

specimen signatures and writings obtained in public Court are in the year 2011, whereas the disputed document is of the year 2006 and therefore, there will be natural variations due to long lapse of time and that the specimen signatures obtained in public court cannot be compared in the absence of contemporaneous signatures.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4. Learned counsel for the petitioner submits that though the specimen signatures are obtained in the year 2011, still the court may compare the specimen signatures with the disputed signatures. In support of his contention, he relied on a decision reported in **Velaga Sivarama Krishna v. Velaga Veerabhadra Rao and another**.

5. On the other hand, learned counsel for the respondent supported the impugned order.

6. This Court in **Velaga Sivarama Krishna v. Velaga Veerabhadra Rao and another** (stated supra), held as follows:

“.....Whenever a party disputes the signature on a particular document, two remedies are open to him, either to request the court to compare the signatures or to file an application to send the document to the expert for comparison. When the petitioner opted to file an application to send the document to the handwriting expert, no prejudice will be caused to either party. When he is asserting that the signature is that of the said party, even though there is a gap between the disputed signatures and admitted signatures, a science has been developed to compare such signatures also by taking into consideration, the direction of the strokes, the speed of writing, the pattern of writing etc., therefore, it cannot be said that no useful purpose will be served by sending the document to the extent.....”

The principle laid down in the above decision is fairly applicable to the facts of the present case and no prejudice will be caused to the respondent-defendant if the disputed document is sent for comparison of the signatures of the respondent with the admitted signatures to the Handwriting Expert and it is for the Court below to form an opinion about correctness of the signatures and decide the issue after taking opinion of the expert into consideration. The opinion of the expert is not binding on the court and it is only piece of evidence.

Following the ratio laid down in the above decision, the impugned order is liable to be set aside.

Accordingly, the Civil Revision Petition is allowed setting aside the order dated 13-09-2011 passed in I.A.No.504 of 2011 in O.S.No.201 of 2009 on the file of Principal Senior Civil Judge, Nellore. No costs. As a sequel thereto, miscellaneous petitions pending, if any, shall stand closed.

A. RAJASHEKER REDDY, J

Date: 23-01-2015

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