

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
CIVIL REVISION PETITION No.3326 of 2015

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21.08.2015

Between:

Shaik Mahaboob Bi

...Petitioner

And

Bandi Brahmanandam and another

...Respondents

Counsel for the petitioner: Mr.P.Vijaya Kiran

Counsel for the respondents: --

The Court made the following:

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ORDER:

This civil revision petition arises out of order, dated 02.07.2015, in I.A.No.778 of 2015 in O.S.No.688 of 2009 on the file of the Principal Junior Civil Judge, Guntur.

I have heard Mr.P.Vijaya Kiran, learned counsel for the petitioner, and perused the record.

The petitioner filed the aforementioned suit for specific performance of an agreement of sale against the respondents. After the evidence was closed and the suit was coming up arguments, the petitioner filed the aforementioned I.A. under Section 45 of the Indian Evidence Act, 1872, for sending Ex.A-1, copy of agreement of sale, along with the admitted signatures of respondent No.1 contained on Ex.A-6, for expert's opinion. The lower Court dismissed the said application on two grounds, viz., (1) that the petitioner filed the application at a belated stage, and (2) that Ex.A-1 is the photocopy and that therefore, it is not permissible to send the copy for expert's opinion for comparison of signatures contained therein.

As rightly observed by the lower Court as far back as the year 2013, respondent No.1 filed a written statement denying execution and the petitioner has not taken any steps to file an application at that stage. He allowed the trial to be completed and when the case was coming up for arguments, he filed this application. In the absence of proper explanation, the lower Court is justified in rejecting the application as belated. Further more, it is not desirable to send a photocopy of a document for comparison, for there is every likelihood of the signatures contained thereon being tampered with. On this ground also, the lower Court was justified in rejecting the application. Hence, I do not find any illegality or jurisdictional error in the order of the lower Court in dismissing the I.A. It is, however, made clear that this Court has not expressed any conclusive opinion on the authenticity or otherwise of Ex.A-1, which shall be decided in the suit by the lower Court.

The Civil Revision Petition is accordingly dismissed.

As a sequel to dismissal of the Civil Revision Petition, C.R.P.M.P.No.4460 of 2015 filed by the petitioner for interim relief shall stand dismissed as infructuous.

(C.V.NAGARJUNA REDDY, J)

21st August, 2015
GHN