

HON'BLE SRI JUSTICE R.KANTHA RAO

C.R.P.No.4686 OF 2015

ORDER

This Civil Revision Petition is directed against order dated 9.9.2015 passed in I.A.No.602 of 2015 in O.S.No.338 of 2009 by the Principal Senior Civil Judge, Rajahmundry.

The petitioner is the 2nd defendant in O.S.No.338 of 2009, which was filed based on a promissory note. In the written statement filed by him, he took the plea that the said promissory notice is forged one. Before the trial Court, he filed a petition under Section 45 of the Evidence Act to send the promissory note to the hand writing expert for comparing the signatures available thereon with that of the admitted signatures. The expert gave an opinion that the signatures are identical. The trial of the suit commenced and the matter was posted for defendants' side evidence. At that stage, the petitioner-second defendant filed an application seeking to send the promissory note again to the hand writing expert for opinion.

The trial Court dismissed the petition on the ground that the opinion of expert is not conclusive proof but only a suggestive one for appreciating the evidence on record and it is not always necessary to get the expert opinion on the issue of the handwriting and the parties can as well lead other convincing forms of evidence in support of their claim. Aggrieved thereby, the present revision has been preferred.

Learned counsel appearing for the petitioner placed reliance on the judgment of this Court in *M.Ramesh Babu v. M.Sreedhar* where the Division Bench took the view that without setting aside earlier report or opinion, if there are special circumstances warrant, Court may appoint second Commissioner/seek opinion

of second expert, for reasons to be recorded.

Having regard to the peculiar circumstances of the case before it, the Division Bench thought it appropriate to direct the second expert to examine the signatures and compare the same with the disputed signatures. The judgment cannot be generally made applicable to all cases. It is not desirable to appoint second Commissioner or to refer to the second expert without there being any valid reasons. There should be special circumstances and the Court must record its reasons for sending the document to the second expert or for appointing a second Commissioner. I do not find any illegality or irregularity in the order passed by the Court below and the order impugned needs no interference by this Court.

Accordingly, the Civil Revision Petition is dismissed at the stage of admission. No costs.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

JUSTICE R.KANTHA RAO

13th November, 2015

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