

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

CIVIL REVISION PETITION No. 250 of 2015

DATED 4th November, 2015

BETWEEN

Mogal Allabakash Baig

...Petitioner

And

D.S.Khairunnisa and ors

...Respondents.

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

CIVIL REVISION PETITION No. 250 OF 2015

ORDER:

The petitioner herein is the plaintiff in O.S.No.21 of 2008 on the file of the learned V Additional District Judge, Rayachoty, Kadapa District. The said suit was filed for specific performance of agreement of sale dated 17.02.2002. In the said suit, the respondent herein filed I.A.No.583 of 2009 seeking to send the agreement of sale (Ex.A.1) to a Handwriting Expert. The said application was ordered on 29.06.2010. Challenging the said order, the petitioner herein preferred Civil Revision Petition No. 3015 of 2010 and this Court granted

interim stay of all further proceedings on 16.07.2010. In the meanwhile, the Expert gave his opinion on 19.08.2010 during the subsistence of the order of this Court. Ultimately the said Civil Revision Petition was disposed of on 30.08.2012 observing that there was no opportunity for either side to file the list of Experts and gave liberty to both sides to file their list of Experts before the trial Court. Now the present interlocutory application was filed by the petitioner herein seeking to receive the objections on his behalf. The said application was dismissed by the court below through order dated 29.12.2014 observing as follows:

“ At the outset, on appraisal of the petition contents, the reasons assigned by the petitioner in his affidavit/petition is devoid of bonafides and merits for the reasons that the said I.A.No.583/2009 is still pending on the file of V Additional District Judge's Court, Rayachoty and moreover it is observed by his Lordship at para 8 as per orders in CRP.No.3015/2010 dt. 30.08.2012 the relevant portion reads as follows:

‘ Sri S.V.,Bhatt relying upon certain decisions of High Court of Madras, also pointed out that a document cannot be sent to a private hand writing expert. Plaintiff is at liberty to cite these decisions before the trial Court and it may pass appropriate orders in this application taking a decision about the question whether the document can be sent to private Expert or not’

Therefore in view of the orders of the Honourable High Court as referred to above, the petitioner herein who is the plaintiff in the suit is at liberty to put forth his arguments in I.A.No. 583 of 2009 in respect of the contention as observed by his Lordship in its order and as a necessary corollary, this petition is dismissed”

The order of the Court below does not appear to be correct as I.A.No.583 of 2009 was disposed of on 29.6.2010. Though the operation of the said order was stayed by this Court on 16.07.2010, meanwhile the Expert gave his opinion. The order of the trial Court in IA.No.583 of 2009, dated 29.6.2010 was confirmed by this Court in CRP.No.3015 of 2010. But in view of the misconception and non bringing to the notice of this Court regarding submission of the report by the Expert on 19.8.2010 this Court disposed of CRP.No.3015 of

2010 with the observations as stated supra. Now the petitioner wants to file his objections to the report submitted by the Expert for which purpose he wants to reopen I.A.No.583 of 2009. In view of the subsequent developments that have taken place prior to the disposal of CRP.No.3015 of 2010 on 30.8.2012, interests of justice would be served if the objections of the petitioner are received by the Court below and arguments of the petitioner are heard along with the said objections while considering the report of the Expert dated 19.8.2010 during the course of adjudicating O.S.No.21 of 2008. Accordingly there shall be an order.

With the above observation, the Civil Revision Petition is disposed of. Miscellaneous petitions pending consideration if any in the Civil Revision petition shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 4th November, 2015.

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