

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition No.5346 of 2015

ORDER:

Aggrieved by the order passed by the Principal Junior Civil Judge, Chodavaram, in I.A.No.143 of 2015 in O.S.No.58 of 2011 dated 21.09.2015, the plaintiff in the Suit and the petitioner in the I.A has invoked the jurisdiction of this Court, under Article 227 of the Constitution of India.

On the suit in O.S.No.58 of 2011 being decreed earlier, the respondent herein carried the matter in appeal to the learned Senior Civil Judge, Chodavaram in A.S.No.6 of 2012. In its judgment dated 21.03.2014, the Appellate Court noted that the Suit promissory note contained the signature of one "Appa Rao" in Telugu; the said document contained the thumb impression which was in blank; it did not show to whom it belonged; and the admitted signature of the defendant was available on the written statement and vakalath, and they were in English language. The Appellate Court remanded the matter to the Trial Judge directing him to obtain the sample signature of the defendant in his presence and to send the same, with the disputed signature of the appellant on Ex.A1, to the handwriting expert for comparison and opinion at the cost of the plaintiff; permit the parties to lead further evidence in support of their rival contentions; and then arrive at a conclusion, if required, with the aid of Section 73 of the Evidence Act.

Thereafter, the petitioner herein filed an application to send Ex.A1 Suit promissory note to the finger print expert for comparison of the signature and the thumb impression with the admitted signature and thumb impression of the defendant for his opinion. By the order under revision, the Court below allowed the application, and directed that the signature on Ex.A1 Suit promissory note, along with the admitted signature of the defendant, be sent to the expert for

comparison and his opinion on payment of the prescribed process by the plaintiff.

On the ground that the Court below did not send the finger prints for examination by the expert, the petitioner has invoked the jurisdiction of this Court, under Article 227 of the Constitution of India. As noted herein above, the order of remand passed by the learned Senior Civil Judge, Chodavaram was with a direction to the learned trial Judge to obtain the sample signature of the defendant, and send the same with the disputed signature to the handwriting expert. The Appellate Court did not direct that the thumb impression of the defendant also be sent. The Trial Court had merely complied with the remand order of the Appellate Court. Whether the thumb impression of the defendant should be sent to the expert, to compare it with the thumb impression on the Suit promissory note, are matters in the discretion of the Court below. In the present case, the discretion exercised by the Court below is strictly in conformity with the remand order passed by the Appellate Court.

The jurisdiction, which this Court exercises under Article 227 of the Constitution of India, is supervisory and not appellate. Save patent illegality in the order under revision, no interference is called for. The order of the Court below does not suffer any patent illegality necessitating interference in proceedings under Article 227 of the Constitution of India.

The Civil Revision Petition fails and is, accordingly, dismissed. The Miscellaneous Petitions, if any pending, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, J)

Date:11.12.2015.

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