

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition No.4806 of 2015

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the VII Additional Senior Civil Judge, Visakhapatnam, in I.A.No.422 of 2015 in O.S.No.1620 of 2010 dated 19.08.2015. The petitioner herein is the defendant in O.S.No.1620 of 2010 and the petitioner in I.A.No.422 of 2015 filed, under Section 45 of the Indian Evidence Act, to send Ex.A1-suit promissory note to the handwriting expert for his opinion.

In the order under revision, the Court below noted that the petitioner-defendant had filed I.A.No.514 of 2014 to issue summons to the Branch Manager, S.B.H., GVMC Branch to produce the withdrawal forms and specimen signatures of the petitioner, since he had an account in that branch, for comparing them with the disputed signatures; the said I.A. was allowed on 03.07.2015, the witness was examined as DW.2, and the documents produced by him were marked as Exs.X1 to X7; the said documents contain many admitted signatures of the defendant; PWs.1 and 2 were examined on behalf of the plaintiff, and DWs.1 and 2 were examined on behalf of the defendant; all the persons connected to the suit transactions were examined; the disputed signature in Ex.A1, and the admitted signature in the Vakalat, written statement, deposition and Exs.X1 to X7 were in Telugu, and there was no difference in the language; direct evidence overrides opinion evidence; and, in the light of the direct evidence and availability of many admitted signatures on record, there was no need to gather opinion evidence by sending the disputed signature to the expert.

The Court below has the power under Section 73 of the Indian Evidence Act to compare the signatures on the documents. Whether or not a document should be sent for examination by a handwriting expert are matters in the discretion of the Court below. The Court below has, in the order under revision, given reasons for its refusal to exercise its discretion to send the document for examination by a handwriting expert. The jurisdiction which this Court exercises, under Article 227 of the Constitution of India, is supervisory and not appellate and, save patent illegality

in the order, 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:13.11.2015.

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