

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

CRP.No.737 of 2015

Between:

Ballanki Sankara Rao

... Petitioner (s)

and

Vijaya Bank, Srikakulam and two others.

... Respondent(s)

DATE OF JUDGMENT PRONOUNCED: ***07th August, 2015.***

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

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|---|---|--------|
| 1 | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be
marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

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THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.737 of 2015

ORDER :

This Civil Revision Petition is filed challenging the order dt.27.01.2015 in I.A.No.1886 of 2015 in O.S.No.335 of 2012 of the Principal Senior Civil Judge, Srikakulam, Srikakulam District.

2. The petitioner herein is the 1st defendant in the suit. The respondent/plaintiff filed the above suit against the petitioner for

recovery of money. The petitioner set up a defence that he had availed loan from the 1st respondent bank on 10.03.2006, on which date certain documents had been obtained from him in blank with his signatures; that one of such documents i.e., pay-in-slip marked as Ex.A7 in the suit was utilized by the 1st respondent to create an impression that the petitioner had paid a sum of Rs.200/- on 08.12.2009; and the same was being relied upon by the 1st respondent to save limitation. The petitioner contended that he never paid said amount under Ex.A7 to 1st respondent bank on the said date and therefore it is necessary to determine the age of the writing on Ex.A7 by sending the said document to an expert under Section 45 of the Indian Evidence Act, 1872.

3. The said contention was opposed by the 1st respondent bank which contended that the allegations made by the petitioner are not true; that the petitioner did sign Ex.A7 on 08.12.2005 and paid Rs.200/- into the bank and had even accepted it in his cross-examination. It contended that it had no need to fabricate Ex.A7 and this application is not maintainable, since it is filed at a belated stage only to harass the 1st respondent.

4. By order dt.27.01.2015, the Court below dismissed the said application. It held that the petitioner as DW1 has categorically deposed in his evidence that the signature on Ex.A7 belongs to him and only denied that he deposited money mentioned therein in the bank in 2008 and therefore, the contention of the petitioner that the employees of the 1st respondent obtained the said document at the time of availment of loan in order to use it to save limitation, cannot be accepted. It further held that the document in question is actually marked as Ex.A6 and not Ex.A7 and the petitioner mentioned exhibit number incorrectly.

5. Challenging the same this Revision is filed.

6. Counsel for the petitioner contended that the Court below ought to have allowed I.A.No.1886 of 2014 and sent the document i.e., pay-in-slip/Ex.A6 to an expert to determine the age of writing thereon and it would assist the petitioner in his defence.

7. In ***Kambala Nageswara Rao v. Kesana Bala Krishna***^[1] this Court held that in suits filed for recovery of money on the basis of promissory notes, applications are some times filed to determine the age of the hand-writing but the issue is very complicated. It observed that mere determination of age, even if there exists any facility for that purpose, cannot by itself determine age of the signature. It held that in a given case ink or pen manufactured several yeas prior to it can be used to put signature or make a writing in the document; and if there is a gap of considerable time between the date of manufacture of ink and the date on which the signature was put or the writing was written on the document, the document cannot be said to have been executed or signed on the date when the ink was manufactured. Similar view has been taken by this Court in CRP.No.773 of 2015 decided on 29.06.2015.

8. This Court has also referred to the judgment of the Supreme Court in ***Shashi Kumar Banerjee v. Subodh Kumar Banerjee***^[2], wherein the Supreme Court itself observed that the chemical tests to determine the age are mere excuse to guess and furnish no reliable data upon which a definite opinion can be based.

9. In this view of the matter, I do not find any merit in this Civil Revision Petition and is accordingly dismissed. There shall be no order as to costs.

10. Consequently, Miscellaneous Petitions pending if any shall stand closed.

M.S.RAMACHANDRA RAO, J

07th August, 2015
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[\[1\]](#) 2014(1) ALD 521

[\[2\]](#) AIR 1964 SC 529