

THE HON'BLE SRI JUSTICE K.C. BHANU

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CIVIL REVISION PETITION No.959 OF 2015

ORDER:

This Civil Revision Petition, under Section 115 of the Code of Civil Procedure, 1908 (for short, 'CPC'), is directed against the Order and decree, dated 29.10.2014, in Execution Application No.209 of 2014 in Execution Application No.1767 of 2003 in Execution Petition No.475 of 2001 in Original Suit No.1393 of 1980 passed by the I Additional Junior Civil Judge, Guntur.

2. The aforesaid Execution Application was filed under Order XXVI Rule 10A and Section 151 CPC and Section 45 of the Indian Evidence Act, 1872 to send Ex.B.1-Will to R.L.F.S.L., Hyderabad for examination by Chemical Examiner to find out the age of the ink used in Ex.B.1-Will and the same was dismissed on the ground that the application was filed at belated stage.

3. Heard both sides.

4. Will was filed before the trial Court and the same was marked as Ex.B.1 on 10.02.2009 and the present application was filed on 07.07.2014 to send that Will to Chemical Examiner for ascertaining the age of the ink. Science has not developed so as to determine the age of the ink on a document. In the decision of **Shashi Kumar Banerjee and others Vs. Subodh Kumar Banerjee since deceased and after him his legal representatives and others**, wherein it is held thus (Para No.23):-

"23. Finally we may point out that the expert admitted in his evidence that it was only by a chemical test that it could be definitely stated whether a particular writing was of a particular year or period. He also admitted that he applied no chemical tests in this case. So his opinion cannot on his own showing have that value which it might have had if he had applied a chemical test. Besides we may add that Osborn on "Questioned Documents" at p.464 says even with respect to chemical tests that "the chemical tests to determine age also, as a rule, are a

mere excuse to make a guess and furnish no reliable data upon which a definite opinion can be based.” In these circumstances the mere opinion of the expert cannot override the positive evidence of the attesting witnesses in a case like this where there are no suspicious circumstances.”

In view of the observation of Supreme Court no useful purpose would be served even if the document is sent to the Chemical Examiner. The petition is devoid of merit and the same is liable to be dismissed.

5. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this revision shall stand closed.

JUSTICE K.C. BHANU

Date:02.04.2015

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