

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL REVISION PETITION No. 1420 OF 2015

ORDER:

This Revision is preferred by the petitioners aggrieved by the order passed by the learned I Additional District Judge, Ranga Reddy District at L.B. Nagar in I.A.No. 1914 of 2014 in A.S.No. 8 of 2013 preferred by them against the decree and judgment rendered in O.S.No. 2943 of 2007 by the learned II Additional Junior Civil Judge, Ranga Reddy District at L.B. Nagar.

The petitioners herein are the plaintiffs in O.S.No. 2943 of 2007 and the respondents herein are the defendants. The suit was filed in November, 2007 seeking perpetual injunction for restraining the defendants from interfering with the peaceful possession and enjoyment of the plaintiffs' land bearing plot No.1, admeasuring 1400 square yards situate in Survey No. 199, Bagh Hayathnagar Village, Hayathnagar Mandal, Ranga Reddy District. Ultimately, the suit was dismissed by judgment and decree dated 16.11.2012 after considering the evidence brought by both sides. On behalf of the plaintiffs, three witnesses were examined and Exs.A1 to A11 were marked. On behalf of the defendants, D.Ws.1 to 3 were examined and Exs.B1 to B11 were got marked. Against the judgment rendered on 16.11.2012, dismissing the suit O.S.No. 2943 of 2007, the petitioners herein have preferred A.S.No. 8 of 2013. It appears, when the appeal was taken up for hearing, the appellants have moved I.A.No. 1914 of 2014 in the said Appeal under Section 45 of the Evidence Act, seeking the following documents, namely Exs.B5, B6, B8, B9 as well as Exs.A10 and A11 to be sent to the Forensic Science Laboratory for examination and for filing the report. The learned I Additional District Judge has noticed that the arguments of the appellant and the respondents were heard and that the learned counsel for the appellants has also taken time on number of occasions for submission of his reply arguments and at that stage, the present Interlocutory Application No. 1914 of

2014 has been filed. Therefore, the learned Judge has observed that in case the petitioners have the slightest of a doubt with regard to the genuineness of Exs.B5, B6, B8 and B9, they ought to have taken immediate steps by challenging the veracity of the claim of the respondents/defendants and further at least, when the Appeal was preferred, the appellants/petitioners ought to have taken steps for referring the documents for examination by an expert. Since the present Application has been moved at a time when the entire matter is getting concluded, the learned Judge has not found any valid or tenable reasons for referring the issue for examination of Forensic Science Laboratory.

It is not in dispute that an appellate Court can receive additional evidence for good and valid reasons, but that is no reason for the petitioners herein to solicit the Court to forward a number of documents to the Forensic Science Laboratory for its examination. This apart, the opinion of an expert under Section 45 of the Evidence Act does not have any binding force on the Court. Wherever the Court is having any doubt, an expert's opinion will help the said Court to make up its mind easily. I therefore, do not find any infirmity in the exercise of jurisdiction carried out by the appellate Court.

This apart, the Interlocutory Application was dismissed as on 19.12.2014 and the petitioners waited till the very last day for preferring the above Revision and they preferred it only on 07.04.2015 and thus, I am left with an impression that the petitioners/appellants are more interested in keeping the issue pending. For the sheer laxity exhibited by the petitioners herein in not making any such effort, initially before the trial Court and at least at the very beginning of the proceedings before the appellate Court or at any rate, prior to commencing the final arguments in the Appeal, I am of the opinion that no useful purpose would be served in allowing the Interlocutory Application at this stage. Above all, if the claim of the petitioners with regard to the tenability of Exs.B5, B6, B8 and B9 has any force, the same can also be demonstrated before the Court. It is not as if the Court cannot look into those documents and then examine them from the perspective of

noticing their genuineness and veracity. Only in rare cases, where the Court is not in a position to firm up its opinion, an expert's opinion /advice will help the Court to firm up its opinion, but not when the Court is free from any such doubt. Hence, I do not find any infirmity in the exercise of jurisdiction carried out by the appellate Court for me to substitute my opinion to that of the appellate Court. This Civil Revision Petition is accordingly, dismissed. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

23rd June 2015

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