

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.2199 of 2015

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ORDER:

This revision is preferred against order dated 13.04.2015 in I.A.No.47 of 2015 in O.S.No.20 of 2009 on the file of VI Additional District Judge, Siddipet, whereunder, trial Court dismissed the application filed by plaintiffs to send disputed certificates to hand-writing expert to be compared with the signature on Vakalat and the written statement to arrive at a just conclusion.

2. Brief facts leading to this revision are as follows:

Revision petitioners herein are plaintiffs who filed suit for declaration that the sale deed dated 27.10.2007 executed by D-1 company in favour of D-2 in respect of 'A' schedule property is null and void and to restrain D-1 by way of permanent injunction from alienating A & B Schedule properties to D-2 or to any other third parties and for costs of the suit.

Defendants resisted the claim of plaintiffs and the trial Court after framing appropriate issues proceeded with trial and after completion of both sides evidence, at the time of arguments, plaintiffs filed the present petition contending that the alleged six certificates filed through Memo dated 17.11.2014 under the signatures of the then Managing Director are binding on defendants and to prove the genuineness of those certificates, plaintiffs requested the Court to send them to an handwriting expert to compare the signature of the then Managing Director Dr Panduranga Rao with his signatures available in the Court on

Vakalat and written statement. The trial judge dismissed the application holding that plaintiffs can prove these documents by other means but without making such efforts they cannot request the Court to transmit the documents for expert opinion. Aggrieved by which, present revision is preferred.

3. Heard both sides.

4. Advocate for revision petitioners submitted that witness examined on behalf of defendants as DW.1 denied execution of these documents which are marked as Exs.A25 to A30, and to prove their correctness, it is necessary that these documents have to be examined by an handwriting expert and his opinion would be an assistance to the Court in arriving at a just conclusion. He submitted that the trial Court without considering this aspect dismissed the application mainly on the ground that it was at a belated stage and that order of the trial Court has to be set aside.

5. On the other hand, learned counsel for respondents submitted that the evidence on both sides is completed and only at arguments stage present application is filed which is only to fill up the gaps that were elicited during the cross-examination of the witnesses. He further submitted that the affidavit filed by petitioners is very vague and does not disclose the details of documents that are filed through Memo dated 17.11.2014. He further submitted that trial Court has rightly dismissed the application and that there are no grounds to interfere with the orders of trial Court.

6. Now the point that would arise for my consideration is :

“Whether the order of trial Court is legal, correct and

proper?”

POINT:

7. I have perused the material papers including impugned order dated 13.04.2015. Revision petitioners herein filed the main suit challenging the sale deed dated 27.10.2007 and the defendants in their written statement disputed the claim of plaintiffs and contended that the certificates relied on by plaintiffs are fabricated and forged. Having taken the plea, it is for the defendants to first prove that these documents are fabricated and forged and then only burden shifts on to plaintiffs to prove their genuineness. But here, as seen from the affidavit filed in support of application, the attempt of plaintiffs appears to be, to prove the plea of defendants as incorrect. But as per the procedure, the parties are expected to prove their case as per the issues that are involved in the suit and admittedly there is no issue touching the genuineness of these documents which are marked as Exs.A25 to 30. As rightly observed by the trial Court the plaintiffs can as well adduce evidence and prove the genuineness of these certificates by other means.

8. On a scrutiny of the material, I do not find any illegality or jurisdictional error in the order of trial Court on the other hand it rightly dismissed the application taking the facts of the case and nature of the suit into consideration.

9. For these reasons, I am of the view that there are absolutely no grounds to interfere with the findings of the trial Court and that revision is devoid of merits.

10. Accordingly, this Civil Revision Petition is dismissed. No costs. Miscellaneous Petitions, if any pending, in this petition, shall stand closed.

Date: 03-07-2015.
gvl

S. RAVI KUMAR, J