

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.3162 of 2014

ORDER :

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.12.08.2014 in I.A.No.438 of 2014 in O.S.No.1223 of 2007 on the file of Principal Junior Civil Judge, Tirupati.

2. The petitioner herein is the plaintiff in the above suit.

3. He filed the suit against the legal heirs of one G. Venkatappa Naidu for specific performance of an agreement of sale Ex.A.1 dt.31.12.1998 under which the said G. Venkatappa Naidu is alleged to have agreed to sell in his favour the suit schedule property.

4. Written statement was filed by 3rd defendant by name K. Munirathnam Naidu, and the 3rd respondent herein wherein they denied the execution of the suit agreement of sale or the endorsements thereon. They pleaded that Ex.A.1 is a fabricated and forged document.

5. The other defendants adopted the pleas of K. Munirathnam Naidu and the 3rd respondent.

6. Issues were framed. Trial commenced. Ex.B.1, a

registered sale deed said to have been executed by G. Venkatappa Naidu, was confronted to PW.1 in the witness box, and he allegedly admitted the signature of G. Venkatappa Naidu in Ex.B.1.

7. Thereafter, the respondent nos.1 and 2 filed I.A.No.438 of 2014 under Section 45 of the Indian Evidence Act, 1872 requesting that Exs.A.1, A.2 and A.4 along with Ex.B.1 be sent to a hand-writing expert for comparison with signatures of G. Venkatappa Naidu thereon, and for his opinion.

8. Counter-affidavit was filed by the plaintiff opposing the said application stating that it is not a *bona fide* one, and denying that the Exs.A.1, A.2 and A.4 were fabricated.

9. By order dt.12.08.2014, the Court below allowed I.A.No.438 of 2014. It held that admittedly Ex.B.1, a registered sale deed, was executed by G. Venkatappa Naidu, and since the signatures on Exs.A.1, A.2 and A.4 of G. Venkatappa Naidu are disputed by the respondents, opinion of a hand-writing expert is essential to come to the conclusion as to whether signatures on Exs.A.1, A.2 and A.4 belong to the said G. Venkatappa Naidu or not. It rejected the submission of the petitioner that Ex.A.1 being of the year 1988 and Ex.A.2 being of the year 2000, are not comparable to Ex.B.1 of the year 2003. It held that there was not much of a gap and Ex.B.1 can be

considered as a contemporaneous document to Exs.A.1, A.2 and A.4. It also rejected the contention of petitioner that expert opinion is not an exact science and observed that opinion of the expert would also help the Court to come to the conclusion, although it may not be treated as conclusive proof.

10. Challenging the same, the present Revision is filed.

11. Heard Sri O. Udaya Kumar, counsel for petitioner; and Sri P. Jagadish Chandra Prasad, counsel for respondent nos.1 and 2/Caveators.

12. Although the counsel for petitioner sought to contend that there was no necessity for the Court below to have sent Exs.A.1, A.2 and A.4 for comparison with Ex.B.1 on the ground that the documents cannot be said to be contemporaneous, and also on the ground that expert opinion is not conclusive, I am of the opinion that the gap between Exs.A.1, A.2 and A.4 on the one hand, and Ex.B.1 (which is admittedly containing the signature of G. Venkatappa Naidu and which had been admitted in the evidence of PW.1) on the other hand, is not so much and they can be considered as contemporaneous documents. While it is true that opinion of an expert is not conclusive, his report also would assist the Court in coming to a conclusion whether the signatures on

Exs.A.1, A.2 and A.4 belong to G. Venkatappa Naidu or not.

13. The trial Court has elaborately considered the matter, and I do not see any error of jurisdiction in the order passed by the Court below warranting exercise by this Court of its jurisdiction under Article 227 of the Constitution of India to interfere with the same.

14. Therefore, the Civil Revision Petition is without any merit and is accordingly dismissed. No order as to costs.

15. As a sequel, miscellaneous petitions pending, if any, in this Revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 03.09.2015

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