

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.2075 OF 2015

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed aggrieved by the order, dated 24.04.2015, passed in E.A.No.50 of 2014 in E.P.No.30 of 2012 in R.C.No.397 of 1992 on the file of the I Additional Rent Controller, Hyderabad.

Originally the 1st respondent herein filed the aforesaid R.C against the father of the 2nd petitioner herein in respect of the subject property and obtained eviction order on 05.12.1996, against which an appeal was preferred and the same was dismissed on 30.11.2000. Thereafter E.P. was filed seeking the relief of delivery of possession of the subject property. Pending the E.P proceedings, disputing the identity of the person who has initiated the execution proceedings and the legal heir of the original decree holder and also the GPA holder representing the said legal heir, the judgment debtors filed E.A No.50 of 2014 seeking to send the vakalath and execution application of the original decree holder namely Mahendra Pratap Singh Thakur in the E.P., along with vakalath and main petition in R.C.No.397 of 1992, to hand writing expert for the purpose of comparison of the disputed signatures in the vakalath and execution application in the E.P., with the admitted signatures of the

original decree holder on the vakalath and main petition in R.C.

A counter affidavit was filed denying the averments made by the judgment debtors. The trial Court dismissed the E.A. by the impugned order dated 24.04.2015. Hence, this revision.

Heard the learned counsel and perused the material available on record.

The record discloses that when the original decree holder died, his legal representative sought to come on record by filing E.A.No.38 of 2013 and also sought to be represented by GPA holder by filing E.A.No.37 of 2013 and the trial Court allowed the said applications on 23.06.2014 by overruling the objections raised by the judgment debtors with regard to the identity of the so-called legal heir of the decree holder and also the GPA holder sought to be represented by the said legal heir. In the present E.A also, the judgment debtors have raised similar objections as were raised in E.A.Nos.37 & 38 of 2013. When the objections in the earlier E.As were overruled by the trial Court, it is not open to the judgment debtors to raise the same objections in the present E.A filed under Section 45 of the Indian Evidence Act seeking the relief as referred to above. In these circumstances, this Court is of the view that the judgment debtors filed the present E.A only to protract the litigation, but not with bona fide intention.

Accordingly, the revision is dismissed. No order as to

costs.

As a sequel, pending miscellaneous petitions, if any,
shall stand closed.

**JUSTICE R.SUBHASH
REDDY**

19th June, 2015
v v