

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.2924 of 2011

ORDER:

This revision is preferred against order dated 25.04.2011 in I.A.No.148 of 2011 in O.S.No.39 of 2010 on the file of Senior Civil Judge, Yellamanchili.

2. The revision petitioner herein is defendant, who filed application under Section 45 of the Indian Evidence Act, requesting trial Court to send disputed promissory note to a handwriting expert for comparison of his signatures in order to prove his defence of forgery.

3. Respondent herein, who is plaintiff, opposed the said application.

4. The trial Court, on consideration of contentions and rival contentions of both parties, dismissed the application holding that admitted signatures of revision petitioner are not available in record.

5. Aggrieved by the dismissal of application, present revision is preferred.

6. Heard both sides.

7. Advocate for revision petitioner herein filed this application immediately after the case is posted for his evidence. As the burden is on him to prove his defence of forgery, he requested the Court to send the admitted signatures on vakalat and written statement to be

compared with the signature on promissory note. But the other side opposed the same on the ground, with an intention to support his plea of forgery, revision petitioner changed his signatures on vakalat and written statement and as there are no documents containing signatures of contemporary period, no purpose would be served by sending documents to an expert. Now, advocate for revision

petitioner submitted that there are documents of relevant period which are two receipts, one agreement and lease deed, and these documents are of the year 2007-08 and petitioner is ready to produce these documents for comparison.

8. Advocate for respondent contended that these are not public documents and he may be directed to produce public documents i.e., pan card, bank pass book and sales tax returns, if any, so that they can be compared with admitted documents.

9. I have perused the impugned order dated 25.04.2011 and also contentions and rival contentions of both parties that are raised in the suit. According to plaint allegations, promissory note is dated 20.07.2008 and trial Court dismissed the application as there are no admitted documents available on record of the contemporary period. But, now the petitioner has come forward with some documents like receipts, agreement and lease deed, which contains his signatures and the same can be compared with the disputed signature on the

promissory note. As rightly pointed out by advocate for respondent if revision petitioner is having public documents like any registered documents, bank pass book, pan card and sales tax returns etc., those can also be produced before trial Court so that handwriting expert will have full material for comparison of disputed signatures. Therefore, considering the above referred available documents, I feel that an opportunity should be given to the revision petitioner to prove his defence by sending disputed promissory note and other documents containing admitted signatures of revision petitioner herein to a handwriting expert for comparison and report.

10. For these reasons, the Civil Revision Petition is allowed and impugned order is set aside and the trial Court is directed to receive documents containing admitted signatures of revision petitioner like receipts, agreement, lease deed, bank pass book, pan card and sales tax returns etc., as expeditiously as possible and on such production, the lower Court shall forward the disputed promissory

note and above documents to a handwriting expert for comparison and report.

11. Accordingly, Civil Revision Petition is allowed. No costs.

12. Miscellaneous Petitions, if any, shall stand closed.

S. RAVI KUMAR, J

10th April 2015.

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