

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.1375 of 2015

ORDER :

This Revision is filed by petitioners who are defendants in OS.No.194 of 2006 challenging the order dt.10.03.2015 in IA.No.2132 of 2014 in IA.No.281 of 2008 in the said suit.

2. The suit was filed by respondent for relief of a declaration of title and grant of a perpetual injunction restraining petitioners from interfering with the alleged peaceful possession and enjoyment of the respondent over the suit schedule property.
3. Written Statement was filed, issues were framed, and trial commenced and concluded.
4. IA.No.281 of 2008 was filed by respondent under Order 45 of the Indian Evidence Act, 1872 seeking relief that the court should take the thumb impressions and signatures of respondent and her husband in open court and send the same to Handwriting Expert for comparison with the said signatures and thumb impressions in a document dt.17.06.1985 and also in the books maintained by the Sub-Registrar, Kadapa, regarding the sale deed dt.17.06.1985 and exchange deed dt.30.06.1988.
5. By order dt.06.11.2014, the said application was closed by the court below. Thus, no relief was granted to respondent.
6. The petitioners herein, who are defendants in the said suit, filed a petition under Section 151 CPC to re-open the proceedings in the said IA, and to set aside the order passed on 06.11.2014.

7. By order dt.10.03.2015, the said IA was dismissed by the Court below.
8. Questioning the same, this Revision is filed under Article 227 of the Constitution of India.
9. The counsel for petitioners would contend that petitioners wish that IA.No.281 of 2008 be re-opened and a document Ex.B.1, which the petitioners are relying on, should be sent to an expert for comparison of signatures thereon of one Venkata Subba Reddy, who is PW.2 therein, with other admitted signatures; and unless this IA.No.2132 of 2014 is allowed and IA.No.281 of 2008 is restored and an order to that effect is passed, prejudice would be caused to petitioners.
10. I.A.No.281 of 2008 was filed by respondent and in the order dt.06.11.2014, the court below had not granted any relief to the said respondent in the said IA. The respondent did not question the said order by way of filing any Revision.
11. It is strange that petitioners who are defendants wanted the said IA.No.281 of 2008 to be re-opened so that they can get relief in the said I.A. This is indeed a strange request. If the petitioners wish that any document which they wish to place reliance on requires to be examined by a Handwriting Expert under Section 45 of the Evidence Act, they ought to have filed a petition under Section 45 of the Indian Evidence Act for the said relief. They cannot take advantage of an application filed by respondent to send some other document, viz., Ex.B.2 dt.17.06.1985, that too when the said I.A. has been rejected and the said order is in favour of petitioners. Although the court below wrote an

elaborate order rejecting IA.No.2132 of 2014, I am of the opinion that the contents thereof need not be considered in view of the above reasons. The petitioners, if they so desire, can file another application under Section 45 of the Evidence Act to send Ex.B.1 to an Handwriting Expert. If such an application is filed, the court below shall consider it on merits and decide it. I see no merit in the Revision and it is accordingly dismissed with the above observations. No order as to costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 22-04-2015

Ndr/*

Note : Issue C.C. in two days.

B/o.

Ndr/*