

HON'BLE SRI JUSTICE R. SUBHASH REDDY

Civil Revision Petition No.4655 of 2014

Order:

The 2nd defendant in O.S.No.477 of 2011, on the file of the III Additional Senior Civil Judge, Vijayawada, has filed this Civil Revision Petition under Article 227 of the Constitution of India, aggrieved by the order dated 21.08.2014 passed in I.A.No.623 of 2013.

Respondents 1 to 6 herein filed the aforesaid suit for declaration, mandatory injunction and permanent injunction with regard to the suit schedule property. The said relief is claimed, based on the partition deed alleged to have been signed by one Sri Cherukuri Srirama Murthy. When the suit was coming up for trial, petitioners herein filed I.A.No.623 of 2013 under Section 45 of the Indian Evidence Act, to send the said partition deed dated 16.03.1981 for comparison of the signatures thereon, with that of the signatures on the registered gift deed dated 03.09.2001. It is the case of the petitioners that the partition deed dated 16.03.1981 is not executed by Srirama Murthy. The said I.A., is dismissed by the court below by the impugned order on the ground that there is time-gap of about 20 years between the partition deed dated 16.03.1981 and the registered gift deed dated 03.09.2001.

Heard Sri P. Prabhakara Rao, learned counsel for the petitioners and Sri R. Narasimha Reddy, learned counsel for

the respondents and perused the impugned order.

It is contended by the learned counsel for the petitioners that mere time-gap between the two documents, viz., partition deed and gift deed, is no ground to deny sending of the partition deed, for comparison of signatures thereon by an expert.

On the other hand, it is submitted by the learned counsel for the respondents that no contemporaneous documents are available, as such, the court below has rightly rejected the I.A., filed by the petitioners. It is further submitted that partition deed is dated 16.03.1981 and the alleged gift deed is dated 03.09.2001 and in view of the time-gap of 20 years, there is every likelihood of difference in the signature; in the absence of filing any contemporaneous documents, it is not open to the petitioners to seek sending of the partition deed, for comparison of signatures thereon, by an expert.

It is to be noticed that, partition deed relied on by the respondents-plaintiffs is dated 16.03.1981. Based on such document, suit is filed for declaration, mandatory injunction and permanent injunction. The I.A., is filed in the year 2013 seeking to send the said document for comparison of signatures thereon, with that of the signatures on the gift deed dated 03.09.2001. Unless there are admitted contemporaneous documents, no purpose would be served if the said document is sent for comparison of signatures thereon, by an expert. The court below itself has observed that if the petitioners are in possession of contemporaneous

documents, they can file the same and seek appropriate relief for sending the same to an expert for comparison of signatures.

In view of the reasons recorded in the impugned order in rejecting the I.A., filed by the petitioners, I do not find any merit in this Civil Revision Petition which warrants interference with the impugned order. However, it is made clear that if any contemporaneous documents are available, it is open to the petitioners to take appropriate steps in the matter, as already observed by the court below.

Civil Revision Petition is accordingly disposed of. No order as to costs. As a sequel, miscellaneous petitions if any pending in the C.R.P., stand closed.

R.SUBHASH REDDY, J

February 20, 2015
MRR