

HON'BLE SRI JUSTICE R. SUBHASH REDDY

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C.R.P.No.1535 of 2015 and C.R.P.(SR).No.8821 of 2015

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COMMON ORDER :

Since both these civil revision petitions arise out of the same common order and the parties are also one and the same, they are heard together and being disposed of by this common order.

2. These two Civil Revision Petitions, under Article 227 of the Constitution of India, are filed by the petitioner/defendant aggrieved by the common order and decrees dated 09.03.2015 in I.A.No.217 of 2015 and I.A.No.210 of 2015 in O.S.No.133 of 2004, passed by the Additional Senior Civil Judge, Machilipatnam, Krishna District, dismissing the applications filed by him (1) under Section 45 of the Indian Evidence Act seeking to refer Ex.A.1 promissory note to another Hand Writing Expert for fresh opinion, and (2) under Section 151 of C.P.C., seeking to reopen the matter for the purpose of referring Ex.A.1 promissory note to another Hand Writing Expert for fresh opinion, respectively.

3. The respondent/plaintiff has filed the aforesaid suit for recovery of money based on a pronote. Disputing his signature on the said pronote, earlier, the application filed by the petitioner/defendant to send Ex.A.1 pronote to the Hand Writing Expert was allowed and the Expert also gave opinion stating that the disputed signature tallies with the admitted signature of the petitioner/defendant. When the suit was posted for arguments, the petitioner/defendant has filed applications in I.A.Nos.210 and 217 of 2015 in O.S.No.133 of 2004 seeking to reopen the matter and to refer Ex.A.1 promissory note to another Hand Writing Expert for fresh opinion, respectively. The Court below dismissed the said applications through the impugned common order dated 9.3.2015 holding that the object of filing of these petitions seems to be an attempt to protract the litigation. Aggrieved

by the same, the petitioner/defendant has filed these revision petitions.

4. Heard learned counsel for the petitioner/defendant and perused the impugned common order dated 9.3.2015, including the affidavit filed in support of the applications.

5. The suit is of the year 2004. A perusal of the affidavit filed in support of the applications reveals that except stating that the person, who examined the disputed signature with the admitted signature, is a junior one, who got inexperience lacking with professional skill, no other justifiable reason is mentioned to send Ex.A.1 again for expert opinion afresh. If, for any reason, the earlier expert is not cross-examined, the petitioner/defendant can take steps to cross-examine such witness, but cannot once again seek to send the document to another Expert for fresh opinion. As rightly observed by the Court below, the object of the petitioner/defendant in filing the applications appears to be only to protract the litigation.

6. In view reasons assigned by the Court below, I do not find any merit in both the civil revision petitions, warranting interference by this Court under Article 227 of the Constitution of India.

7. Accordingly, both the civil revision petitions are dismissed, at the admission stage. As a sequel, miscellaneous petitions pending, if any, in these revisions shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

17.04.2015.

NOTE: Issue C.C. by 20.04.2015.

(B/O)

Msr

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