

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

CIVIL REVISION PETITION Nos.5382 of 2012 and 1194 of 2013

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COMMON ORDER:

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These two Revisions arise out of the same suit between the same parties. Therefore, these Revisions are disposed of by this common order.

2. The petitioner in C.R.P.No.5382 of 2012, who is 1st respondent in C.R.P.No.1194 of 2013, is plaintiff in the suit O.S.No.2153 of 2010 on the file of III Junior Civil Judge, City Civil Court, Hyderabad. She filed the said suit against respondents in C.R.P.No.5382 of 2012/petitioners and respondent Nos.2 to 6 in C.R.P.No.1194 of 2013 to declare that she is entitled for appointment on compassionate grounds in the place of her late mother B.Lakshamma on the basis of a Will dt.30-10-2008 said to have been executed by the said Lakshamma in her favour and for a direction to defendant Nos.6 to 8 to consider her application for appointment on compassionate grounds and also restraining defendant Nos.6 and 7 from employing any person or releasing any death benefits of Lakshamma in favour of any person other than the plaintiff.

3. Defendant Nos.1, 3 and 5 filed a written statement

opposing the suit claim, contending that the deceased Lakshamma executed a letter of declaration and confirmation with regard to her retirement benefits which is marked as Ex.B-1 and as per Ex.B-1, the plaintiff as well as defendant Nos.1, 3 and 5 are entitled to equal share in service-cum-death benefits. They therefore contended that in the light of Ex.B-1, which is said to be a last testamentary disposition of Lakshamma, the Will set up by plaintiff cannot be acted upon.

4. The plaintiff however denied the thumb impression of Lakshamma on Ex.B-1 while defendant Nos.1, 3 and 5 contended that Ex.A-14 Will is a forged document.

5. The plaintiff had also filed Exs.A-25 to A-28 said to contain the thumb impressions and signatures of late Lakshamma.

6. While the plaintiff filed I.A.No.349 of 2012 to send Ex.A-14 to an Expert in handwriting and thumb impression in the office of Forensic Department, Erramanzil, Hyderabad to compare the signatures on Ex.A-14 with those on Exs.A-26 to A-28, defendant Nos.1, 3 and 5 filed I.A.No.391 of 2012 to send Ex.B-1 to the same Expert in the office of the Forensic Department, Erramanzil, Hyderabad to compare the thumb impression of Lakshamma with those on Exs.A-25 to A-28.

7. By order dt.27-08-2012, the Court below dismissed both the applications. It held that neither of the parties had filed the admitted documents containing the signatures/thumb impressions of Lakshamma which can be compared with those on Exs.B-1 and

A-14. It also noted that Exs.A-25 to A-28 are the documents produced from the custody of plaintiff, but they are disputed by defendants. It held that since Exs.A-25 to A-28 are disputed by defendants, unless both parties agree on some admitted documents for comparison, there is no point in sending these documents to an Expert for comparison.

8. Challenging the same, the plaintiff filed C.R.P.No.5382 of 2012 while defendant Nos.1, 3 and 5 filed C.R.P.No.1194 of 2013.

9. Heard Sri Brahmadandi Ramesh, learned counsel for petitioners in C.R.P.No.1194 of 2013/respondent Nos.1, 3 and 5 in C.R.P.No.5382 of 2012 and Sri Gopala Krishna Kalanidhi, learned counsel for petitioner in C.R.P.No.5382 of 2012/1st respondent in C.R.P.No.1194 of 2013.

10. Sri Brahmadandi Ramesh, learned counsel for petitioners in C.R.P.No.1194 of 2013 has stated categorically that Exs.A-25 to A-28 contain the admitted

signatures/thumb impressions of deceased Lakshmamma and both the counsel have stated that both Ex.B-1 and A-14 can be sent to Expert for comparison of the thumb impressions/signatures thereon with those contained in Exs.A-25 to A-28.

11. In this view of the matter, both the Revisions are allowed and the orders dt.27-08-2012 in I.A.Nos.349 of 2012 and 391 of 2012 in O.S.No.2153 of 2010 of the III Junior Civil Judge, City Civil Court, Hyderabad are set aside and both the said I.As. are allowed. No costs.

12. As a sequel, miscellaneous petitions pending if any, in these Revisions, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 26-08-2015

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