

THE HON'BLE SRI JUSTICE R.KANTHA RAO

CIVIL REVISION PETITION No.176 of 2015

ORDER:

Heard learned counsel appearing for the petitioners.

When the suit was posted for defendants' evidence, the petitioners/defendants 2 to 6 filed an application under Section 45 of the Indian Evidence Act to send Ex.A.1 – promissory note to the Handwriting Expert along with the mortgage deeds filed in O.S.Nos.30, 35, 36, 37 and 38 of 2008, where the signatures of the alleged executant of the promissory note are available. The learned trial Court dismissed the petition, on the ground that the mortgage deeds are not produced before the Court.

Learned counsel appearing for the petitioners submits that before sending the handwriting or signature of a party to the opinion of the Handwriting Expert, the Court should not have formed an opinion, and therefore, it ought not to have insisted upon production of the mortgage deeds. In support of his contention, the learned counsel relied upon a judgment of this Court in **Nookala Sridevi v. D.Krishnarjuna Rao**, wherein the learned Single Judge of this Court took the view that before sending the document to the Handwriting Expert, the Court should not form an opinion as to the disputed signature. The said judgment is not applicable to the facts of the present case.

It is contended by the 1st respondent – plaintiff before the trial Court that the mortgage deeds are filed in some other suits and on the mere application moved by the petitioners herein to send the suit promissory note to the Handwriting Expert along with those documents for the purpose of comparison of the signature, there is no obligation on the trial Court to entertain the same. It is further contended by the 1st respondent before the trial Court that the petitioners desired to protract the trial of the suit.

In any event, merely because the petitioners dispute the signature in the suit promissory note, it is not obligatory on the part of the trial Court to send the document for the purpose of comparison of the disputed signature with the admitted signatures. The execution of the promissory note also can be proved by other evidence. I do not find any reason to interfere with the order passed by the learned trial Judge.

Hence, the Civil Revision Petition is dismissed, at the stage of admission. No order as to costs. The miscellaneous petitions pending, if any, shall stand closed.

R.KANTHA RAO, J

Date:24.02.2015

GJ