

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.522 of 2011

ORDER:

Heard the learned counsel for petitioners and the learned counsel for respondents.

2. The petitioners herein are defendants 1 and 3 in O.S.No.490 of 2008 on the file of the Court of the Principal Junior Civil Judge, Kovvur (for short, trial Court). The first respondent herein filed the said suit for permanent injunction against the defendants (petitioners and respondents 2 and 3 herein). When the suit was posted for cross examination of P.W.1, the petitioners herein filed an application in I.A.No.664 of 2010 seeking to send the Will dated 03.05.2007 to the handwriting expert for comparison. The trial Court dismissed the said application, by its order dated 18.01.2011, stating that unless contemporary signature is available, the Will cannot be sent to the handwriting expert for comparison. Challenging the said order, the present Civil Revision Petition is filed.

3. The trial Court failed to note that the Will has to be proved in accordance with law, and if there is any suspicion with regard to the signature of the executant on the basis of admitted evidence, the Will can be sent to the handwriting expert for comparison. The Will cannot be sent to the handwriting expert for comparison like any other document without adducing any evidence.

4. In view of the same, the impugned order cannot be found fault and, accordingly, the Civil Revision Petition is dismissed. However, this will not prevent the petitioners from proving the Will by other means. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 30.11.2015

TJMR