

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

CIVIL REVISION PETITION No.3094 of 2015

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ORDER:

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This Civil Revision Petition is filed challenging the order

dt.01-07-2015 of the Additional Senior Civil Judge, Tirupati rejecting I.A.No.492 of 2015 filed in O.S.No.538 of 2006 to summon the handwriting Expert, who had furnished a report to the said Court on 10-03-2015.

2. Notice in this Revision was issued to respondent and notice has been served, but there is no representation on behalf of respondent.

3. The Court below observed that Expert report was received on 10-03-2015, but the petitioners had not asked for any examination of the Expert and so the suit was posted for arguments on 18-03-2015; later eight more adjournments took place without the petitioners having requested to reopen the evidence; and ultimately on 28-04-2015, this I.A. has been filed. It therefore observed that this is nothing but delay tactics on the part of petitioners.

4. Learned counsel for petitioners contended that after coming to know of the receipt of the Expert opinion, the petitioners filed a copy application to receive the same on 15-04-2015; certified copy of the Expert opinion was received by them on 24-04-2015; and thereafter I.A.No.492 of 2015 was filed to reopen the petitioners' evidence and another I.A. was filed to examine the handwriting Expert. He therefore contended that the view of the Court below that there were eight adjournments in between the receipt of the report and the filing of the I.As. is not warranted, particularly, when these adjournments were sought mostly at the instance of respondent.

5. I find considerable force in the submission of the learned counsel for petitioners.

6. Once it is admitted that the Expert opinion was received on 10-03-2015, unless the petitioners obtain a copy of the said report, a decision cannot be taken by them whether or not to summon the Expert. Since the petitioners had been able to secure the copy of the Expert report only on 24-04-2015 and immediately filed I.A.No.482 of 2015, the Court below ought not to have denied the petitioners an opportunity to summon the handwriting Expert, who had given the opinion in respect of the signatures of the

deceased husband of

1st petitioner.

7. In this view of the matter, the impugned order cannot be sustained aside and it is accordingly set aside.

I.A.No.492 of 2015 in O.S.No.538 of 2006 on the file of the Additional Senior Civil Judge, Tirupati is also allowed.

8. The Civil Revision Petition is allowed accordingly.
No costs.

9. As a sequel, miscellaneous petitions pending if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 11-09-2015

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