

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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CIVIL REVISION PETITION No.1263 of 2015

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ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the Learned Senior Civil Judge, Puttur in I.A. No.100 of 2015 in O.S. No.56 of 2015 dated 06.03.2015.

I.A. No.100 of 2015 was filed by the petitioner-defendant to reopen the suit to examine the scribe of the promissory note. The petitioner had earlier requested that the promissory note be sent to a handwriting expert. On an order being passed by the Court below, the matter was referred to a hand writing expert who, after examining the said document, opined that the impression in the suit promissory note was unfit for examination, and he was unable to give his opinion. A similar opinion was given by another expert. The plaintiff, thereafter, examined himself as P.W-1 and the defendant examined himself, and the attesor of the promissory note as D.W-2. The evidence of D.W-2 is said to be contradictory and, while he supported the defendant in his chief-examination as D.W-2, he supported the version of the respondent-plaintiff in cross-examination.

Be that as it may, the petitioner filed I.A. No.225 of 2014 to summon the scribe and attesor. The petition was allowed, but the petitioner did not examine the scribe on that date. He, thereafter, sought the scribe to be re-summoned. He filed I.A. No.462 of 2014 stating that the relative of the scribe died, and he could not attend the Court. This I.A. was allowed with a condition that the scribe should be examined on 13.06.2014 without fail. Since the said condition was not complied, the I.A. was dismissed for default. The petitioner, thereafter, filed a petition to restore the I.A. which was allowed, and the petitioner was permitted to examine the witness. Even, thereafter, the petitioner did not produce the scribe, and hence his evidence was closed.

In the order under revision, the Court below noted that the petitioner had

filed two petitions to summon the scribe; though the petitions were allowed, he did not examine the scribe; and the present petition was the 4th petition to examine the scribe, and was filed at the stage of arguments. The Court below observed that the petitioner was filing one petition after another, but the scribe did not come forward to give evidence; and, hence, filing one more petition did not serve any purpose. The petition was, accordingly, dismissed.

It is evident from the order of the Court below that, despite repeated applications being filed by the petitioner to summon the scribe, and the Court below permitting him to do so, the scribe of the documents was not produced for examination. The Court below refused to accede to the petitioner's request on the ground that it was the 4th such application in the line. The order of the Court below does not suffer from any patent illegality necessitating interference in proceedings under Article 227 of the Constitution of India. The Civil Revision Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, J)

Date: 02.04.2015

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