

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.3240 OF 2015

—
DATED: 07.09.2015

-
-

Between:

Jujjavarapu Sarveswara Rao

.. Petitioner

And

Valivetti Kutumba Sastry

.. Respondent

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.3240 of 2015

ORDER:

This civil revision petition under Article 227 of the Constitution arises out of the order dated 19.06.2015 passed by the learned Additional Senior Civil Judge, Eluru, in I.A.No.682 of 2015 in O.S.No.33 of 2012. By the said order, the trial Court allowed the application filed by the defendant in the suit under Section 45 of the Indian Evidence Act, 1872 (for short, 'the Act of 1872'), to send Ex.A1 promissory note to the Government Forensic Laboratory for expert opinion. Aggrieved thereby, the plaintiff in the suit is before this Court.

O.S.No.33 of 2012 was filed for recovery of a sum of money based on a promissory note. The claim of the defendant by way of the subject I.A. was that there were material alterations in the said pronote. It is in the context of this allegation that he sought an expert opinion under Section 45 of the Act of 1872 on the subject promissory note.

Notice having been ordered, the respondent/defendant entered appearance through learned counsel. Heard the learned counsel for the parties.

The contention advanced on behalf of the petitioner/plaintiff is that no contemporaneous handwriting was available whereby Ex.A1 pronote could be subjected to expert opinion. Another contention is that the application was filed belatedly after closure of the evidence in the suit proceedings.

It is a settled legal position that expert evidence under Section 45 of the Act of 1872 can be sought at any stage of the proceedings. The ground that the subject I.A. was filed belatedly therefore does not warrant consideration. As regards the other contention with regard to contemporaneous handwriting not being available, it is for the expert to determine as to whether the material made available to him is sufficient to draw an inference of material alteration as alleged by the defendant in the suit. Merely because contemporaneous handwriting is not available would not deter the expert from verifying as to whether

the contents of Ex.A1 promissory note suffered any alteration in terms of the age and nature of the ink or the difference in the handwriting, if any. This Court therefore finds no ground to interfere with the well-reasoned order passed by the trial Court.

The civil revision petition is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

7th September, 2015
IBL