

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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C.R.P.NO.2589 OF 2015

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ORDER

Heard both the counsel.

2. Aggrieved by the order and decree dated 22.6.2015 passed by the court of I Additional Senior Civil Judge, Vijayawada in I.A.No.93 of 2015 in O.S.No.598 of 2014, in rejecting to send Ex.A-1 suit promissory note to an expert for opinion under Section 45 read with Section 73 of the Indian Evidence Act, 1872 and Section 151 of CPC, the defendant in the suit filed the revision.

3. The plaintiff filed the suit for recovery of amount based on a promissory note. The case of the defendant is that she does not know the plaintiff and there is no money transaction between them and the plaintiff is the friend of a scribe by name Neerukonda Venkateswara Rao, who is the friend of her husband and that she borrowed an amount of Rs.3,00,000/- from the scribe - Neerukonda Venkateswara Rao, and executed four promissory notes for Rs.75,000/- each and subsequently she discharged the debt, but as the promissory notes were not traced, they were not returned. Her further case is that in Ex.A-1, in Rs.6,75,000/-, '6' was added before Rs.75,000/- and similarly in the date 26.7.2013, '7' is altered as '8' and that the signature in the bottom of revenue stamp is not that of her and therefore, she sought to send Ex.A-1 to an expert for opinion. The trial court rejected the claim of the defendant.

4. The learned counsel for the petitioner contended that even at the stage of arguments the court can send disputed signatures to an expert for opinion. In support of this contention, the learned counsel relied on the judgment of a learned single Judge of this court in **GURU GOVINDU vs. DEVARAPU VENKATARAMANA**^[1]. He submitted that in the present case, as the plaintiff is disputing the execution of Ex.A-1 promissory note and as there are discrepancies with regard to handwriting in the figures contained in Ex.A-1, in order to do substantial justice, the court below may be directed to send Ex.A-1 to an handwriting expert for comparison with the admitted signatures with that of the disputed signatures and that no prejudice would be caused to the plaintiff.

5. On the other hand, the learned counsel for the respondent supporting the

impugned order sought to dismiss the revision.

6. In the present case, the stage of suit is arguments and though, there is no hard-and-fast rule that at the stage of arguments, disputed document cannot be sent to an expert for opinion, but as stated in the judgment relied on by the counsel for the petitioner, court shall feel the necessity to seek the opinion of an expert. Before filing the suit, the plaintiff got issued a legal notice and though the said notice was received, the defendant at the earliest point of time, did not dispute the same by giving any reply notice. During the stage of the trial also, no such application is filed and the matter is at the stage of arguments. Further, the defendant did not make available to the court the contemporary signatures for comparison and as there is gap between the execution of alleged Ex.A-1 and the admitted signatures on vakalat and the written statement, there is every possibility of mismatching. Therefore, in these circumstances, as held by the trial court, no purpose would be served and the trial court has rightly held that under Section 73 of the Indian Evidence Act, 1872 the court can compare the signatures. Under these circumstances, I do not find any reason to interfere with the impugned order and the revision is devoid of any merits and the same is liable to be dismissed.

7. The revision is accordingly dismissed. No costs.

8. It is made clear that the trial court shall dispose of the suit in accordance with law based on material evidence available on record, uninfluenced by any of the observations made by this court while disposing of the revision or in the impugned order.

9. Miscellaneous petitions pending if any, shall stand closed.

AVS

11—09—2015

[\[1\]](#) 2006(5) ALT 17