

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

CIVIL REVISION PETITION No.2274 OF 2015

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ORDER:

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

The petitioner's application in I.A.No.119 of 2015 in O.S.No.522 of 2011 on the file of the Additional Senior Civil Judge, Chittoor District, filed under Section 45 of the Indian Evidence

Act (for short, 'the Act') seeking to send the disputed acknowledgement of debt-cum-security, Ex.A6, for comparison to a handwriting expert was dismissed by the trial Court under the impugned order, dated 07.04.2015.

Learned counsel for the petitioner states that earlier the petitioner filed I.A.No.521 of 2014 to send the very same document, Ex.A6, to the Deputy Controller of Stamps, Central Stamp Deposit, Nasik, to ascertain the age of the revenue stamp appearing thereon. The said report was already received. Thereafter, the petitioner filed I.A.No.119 of 2015, seeking to send Ex.A6 to the Andhra Pradesh Forensic Science Laboratory for comparison of the signature of the 1st defendant, as the same is not genuine and valid and an expert opinion on that is necessary. The trial Court, having found that the petitioner has already availed one opportunity by sending Ex.A6 to ascertain the age of the stamp, held that the petitioner is delaying the suit though it is five years old by filing the present petition. It is also held that the said suit is based on the mortgage, there is no impediment under the Limitation Act.

Learned counsel for the petitioner states that the petitioner's valuable right to get the opinion of the handwriting expert on Ex.A6 would be deprived. I am not inclined to accept the said contention as the petitioner is apparently delaying the suit

by filing petition after petition under Section 45 of the Act. Even though his earlier application was allowed, he made the present request, thereafter. Even otherwise, Section 73 of the Act entitles the Court to examine the disputed signature with the admitted signature. Secondly, as rightly pointed out by the trial Court, the suit being based on mortgage, the issue hardly carries any importance. Hence, no interference is warranted by this Court with the impugned order. However, the Court below shall proceed with the trial of the suit expeditiously and dispose of the same preferably before the end of January, 2016.

The Civil Revision Petition is accordingly disposed of. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

VILAS V.AFZULPURKAR, J

14.10.2015

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