

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

C.R.P.No.4964 of 2014

ORDER:

This Revision Petition is filed challenging the Order dt.25-11-2014 in I.A.No.709 of 2014 in O.S.No.106 of 2005 of the Senior Civil Judge, Srikalahasthi.

2. Petitioner herein is the plaintiff in the above suit. Suit was filed for specific performance of agreement of sale dt.07-10-2005. The respondents-defendants took a plea that the said agreement of sale is a forgery.

3. The petitioner-plaintiff therefore filed I.A.No.709 of 2014 to send the disputed agreement of sale to the Government handwriting expert, Forensic Science Laboratory, Hyderabad for comparison with the admitted signatures of the deceased-1st defendant along with his admitted signatures in the registered sale deed dt.31-12-2005. The said application was allowed on 24-07-2014.

4. After the documents were sent to the Government handwriting expert, Forensic Science Laboratory, Hyderabad for the expert opinion, instead comparing the signature of 1st defendant on the suit agreement of sale with the admitted signature of 1st

defendant available on record, it gave an opinion after comparing the signature of 2nd defendant on the suit agreement of sale with the admitted signature of the 2nd defendant.

5. Therefore, the petitioner objected to the report and requested the Court below to send the documents again to the Government handwriting expert, Forensic Science Laboratory, Hyderabad for comparison of the signatures of 1st defendant on the suit agreement of sale with the admitted signatures of 1st defendant thereon.

6. This was dismissed by the Court below by the impugned order dt.25-11-2014.

7. In the impugned order, the Court below admitted that the Forensic Science Laboratory, Hyderabad had committed error in not comparing the signatures of 1st defendant on the suit agreement of sale with his admitted signatures. But felt that it was not just a proper to send it again and held that it can decide the same itself. It further observed that if it has any difficulty in coming to conclusion, then it can think it over and then send it to the handwriting expert. It referred to the fact that the suit is an old identified matter as one of the reasons for this view.

8. Questioning the same, this Revision Petition is filed.

9. Heard Sri K.Mohan Rami Reddy, learned counsel for the petitioner. None appears for the respondent Nos.2 to 4 even though notice to them has been served.

10. Learned counsel for the petitioner would contend that having allowed the applications for sending the suit agreement of sale to the Forensic Science Laboratory, Hyderabad for comparison by Government handwriting expert with the admitted signatures of 1st defendant, without the said purpose being fulfilled, the Court below cannot refuse the relief to the petitioner as it did in the impugned order. He contended that when the Court below has accepted that the Government handwriting expert, Forensic Science Laboratory, Hyderabad, instead of comparing the signatures of 1st defendant had compared the signatures of 2nd defendant, it ought to have sent the document again to the said official for proper opinion with regard to the signatures of 1st defendant on the suit document.

11. I see force in the submission of the learned counsel for the petitioner. There is no dispute that the question of referring the suit agreement of sale to an expert for comparing with the signature purporting to be of 1st defendant thereon with the admitted signatures of 1st defendant was directed by the Court below in its order dt.24-07-2014. But by mistake, the Government

handwriting expert, instead of comparing the signatures of 1st defendant, gave an opinion whether the signature of 2nd defendant in the suit agreement of sale belong to him or not. When the petitioner has pointed out this fact, the Court below ought to have accepted the request of the petitioner and sent the documents again to the Government handwriting expert, Forensic Science Laboratory, Hyderabad for comparison with the admitted signatures of 1st defendant in the registered sale deed dt.31-12-2005. Its refusal to do so merely on the pretext that the suit is an old suit and identified one, cannot be accepted

12. Therefore, this Civil Revision Petition is allowed and the Order dt.25-11-2014 in I.A.No.709 of 2014 in O.S.No.106 of 2005 of the Senior Civil Judge is set aside. The said Court is directed to send the suit agreement of sale containing the disputed signatures of 1st defendant for comparison with the admitted signatures of 1st defendant on the registered sale deed dt.31-12-2005 to the said expert forthwith. No costs.

13. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 15-06-2015

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