

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition No.3769 of 2015

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the VI Additional Senior Civil Judge, Visakhapatnam, in I.A.No.233 of 2015 in O.S.No.1037 of 2010 dated 30.06.2015.

The petitioner herein is the defendant in O.S.No.1037 of 2015, and the petitioner in I.A.No.233 of 2015. I.A.No.233 of 2015 is filed, under Section 45 of the Indian Evidence Act, to send the disputed document-Ex.A1 for expert opinion by comparing the signatures of defendants 1 and 2. By the order under revision, the Court below observed that the present application had been filed at the fag end of the Suit proceedings; if really the petitioners-defendants were interested in sending the Suit promissory note to the expert, they would have filed the petition at the initial stage; the stated reason, for filing the application, was that the counsel for the plaintiff had put a suggestion during cross-examination about sending the Suit promissory note to the expert; that cannot be a ground to entertain the application; there was adequate evidence on record on both sides, and the Court below could decide the Suit basing on the said evidence; and, at this belated stage, the present application is not maintainable.

The Suit relates to the year 2010 and the application in I.A.No.233 of 2015 was filed five years thereafter, that too after the evidence of DW.1 and DW.2 was completed. Whether a document should be sent for examination to the handwriting expert or not is a matter in the discretion of the Court below. By the order under revision, the Court below has assigned reasons for refusing to entertain such a request. 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.

Reliance placed on **Matta Sriramamurthy v. Arepalli Srirama Murthy**^[1] is misplaced. In the said case, the revision was preferred by the plaintiff against the order passed by the Court below referring the disputed document to a handwriting expert. Whether a document should or should

not be sent for examination to the handwriting expert is in the discretion of the Court below and, save patent illegality in the exercise of such discretion, this Court would not interfere. The Court below has assigned reasons for rejecting the application, and has stated that it was filed belatedly after the evidence of the defendants was completed. I see no reason, therefore, to interfere with the order of the Court below.

The Civil Revision Petition fails and is, accordingly, dismissed. The Miscellaneous Petitions, if any pending, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, J)

Date:18.09.2015.
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[\[1\]](#) 2015 (3) ALT 266