

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

CIVIL REVISION PETITION No. 2998 of 2015

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, aggrieved by the order dated 24.06.2015 passed by the learned II Additional Senior Civil Judge at Nandyal in I.A.No.689 of 2015 in O.S.No.346 of 2013.

The respondent herein filed O.S.No.346 of 2013 on the file of the II Additional Senior Civil Judge at Nandyal against the petitioner herein for recovery of amount on the foot of Ex.A.1 promissory note dated 22.01.2011. During pendency of the suit, the petitioner filed I.A.No.689 of 2015 under Order XXVI Rule 10(A) and Section 151 CPC r/w Section 45 of the Indian Evidence Act seeking to send the suit promissory note to a handwriting expert for comparison of his signature thereon with the admitted signatures on vakalat and written statement, on a plea that the suit promissory note is created one and by forging his signature with the help of the attestor, the respondent filed the suit. The respondent filed a counter denying the same. By an order dated 24.06.2015, the Court below dismissed the said petition. The same is questioned in this civil revision petition.

Sri V. Nitesh, learned counsel for the petitioner, submits that though the petitioner has taken a categorical stand in the written statement that the suit promissory note is forged one, the Court below dismissed the petition on the ground that the petitioner has not taken the plea in the written statement. The learned counsel further submits that in view of the admission made by the respondent as P.W.1 in his cross-examination that there is a slight variation in between the signatures on the revenue stamp and beneath the revenue stamp of the suit promissory note, the said document has to be sent to the handwriting expert for comparison of the signature with the admitted signatures on vakalat and written statement.

Though notice was served on the respondent, there is no

representation on his behalf.

It is to be seen that even according to the affidavit filed in support of the petition, the petitioner has not filed any documents containing his signatures contemporaneous to Ex.A.1 promissory note for sending the same to the handwriting expert for comparison with the disputed signature. The signatures on the vakalat and written statement, which are subsequent signatures to Ex.A.1, cannot be relied upon, as there is every possibility of changing the pattern of signature as the petitioner is having knowledge of the suit. It is settled principle of law that the opinion of an expert is not binding on the Court and it can only be helpful for arriving at a just conclusion. The Court below also referred to Section 73 of the Indian Evidence Act, which empowers the Court to form its own opinion on comparison of the signatures and thumb impressions. When there are no admitted signatures, it cannot be said that the Court below has erroneously dismissed the petition. In view of the same, I see no merit in the revision and the same is liable to be dismissed.

Accordingly, the Civil Revision Petition is dismissed. However, in the facts and circumstances of the case, the Court below shall dispose of the suit on merits uninfluenced by any of the observations made in the order. There shall be no order as to costs.

Consequently, the interim stay granted by this Court in C.R.P.M.P.No.3990 of 2015 on 31.07.2015 is vacated and the said petition shall stand dismissed.

A. RAJASHEKER REDDY, J.

28th August, 2015
cbs

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C.R.P.No.2998 of 2015

28th August, 2015

cbs