

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

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**CIVIL REVISION PETITION No. 4362 of 2015**

**BETWEEN**

S.Syamala Devi

**... PETITIONER**

**AND**

Kantam Leelavathi

**...RESPONDENTS**

Date of Order pronounced: 07.11.2015

**THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR**

1. Whether Reporters of Local newspapers Yes/No  
may be allowed to see the Judgments?

2. Whether the copies of judgment may be Yes/No  
marked to Law Reporters/Journals?

3. Whether his Lordship wish to see the Yes/No  
fair copy of the Judgment?

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**ORDER:-**

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

2. Petitioner is defendant in O.S.No.32 of 2004 pending on the file of Additional Senior Civil Judge, Chittoor. The said suit for specific performance of an agreement of sale was filed by the respondent and it appears that the evidence in the suit on both sides was closed on 10.07.2015 and since then suit is coming up for arguments and the respondent's/plaintiff's counsel is stated to have argued the matter and filed written arguments also on 06.08.2015. Meanwhile, petitioner herein filed I.A.No.601 of 2013 seeking to send Ex.A1 to the handwriting expert to compare the arithmetic insertions in the said Ex.A1 for comparison with the signature of P.W.1 in his vakalat and the deposition. The said application came to be dismissed under the impugned order dated 14.09.2015, primarily, on the ground that petitioner has not raised any such plea of alteration in the written statement and that the petitioner did not evince any interest to argue the I.A. since 2013 and the said application is merely to delay and protract the trial of the suit.

3. Learned counsel for the petitioner has questioned the said order by placing reliance upon paragraph 14 of the written statement wherein petitioner has raised a plea of fabrication of Ex.A1 and the docket proceedings in I.A.No.601 of 2013 which show that it was filed on 02.07.2013 and is coming up for counter and thereafter for enquiry. But on various dates it was adjourned as the staff was on strike and could not be taken up. It is also recorded in the proceedings that both sides not ready on many occasions. Learned counsel submits that the court below took up the I.A. and heard the said I.A. on 26.08.2015 and dismissed the same on 14.09.2015.

4. Per contra, learned counsel for the respondent/plaintiff submits that the impugned order itself demonstrates that petitioner was never serious about arguing the I.A.No.601 of 2013

and he allowed the said I.A. to be closed without arguments on 06.08.2015 and only on his request it was reopened vide orders in I.A.No.711 of 2015 and thereafter heard and disposed of. Learned counsel would also contend that the plea now sought to be raised was never raised in the written statement regarding alterations and except a general plea of fabrication, no other contention was raised. Learned counsel, therefore, submits that the attempt of the petitioner for the need of hand writing expert's evidence is beyond the pleadings and is impermissible.

5. I have considered submissions on either side. I have also seen the copy of the document Ex.A1 and the alterations at more than one place *prima facie* are evident in the document itself. The request of the petitioner for examination of the document by an expert, in view of the said circumstances, in my view, would be justified as the opinion of the expert would assist the court below in arriving at a just conclusion while deciding the suit. The petitioner's application was undoubtedly made in 2013 and the docket proceedings, as noted above, clearly support that the I.A. was not taken up either because of strike or as both sides are not ready on many occasions. The I.A. was earlier closed on 06.08.2015 and reopened immediately within couple of days. Hence, I do not think that the observations of the court below that petitioner was not showing interest in arguing the said I.A., is justified. Even otherwise when crucial issue arising in the suit depends upon the consideration of the suit agreement, any doubts surrounding the said document has to be cleared to enable the trial court to decide the suit effectively.

6. In my view, therefore, the facts and circumstances of the case warrant that the said I.A.No.601 of 2013 is allowed giving one opportunity to the petitioner to send the document for expert comparison but the same shall be done within a specified time limit of not more than six weeks within which time petitioner shall take all necessary steps and ensure that the report of the expert is filed before the court well within the time fixed. Both parties shall thereafter are at liberty to file objections, if any, to the said report and thereafter the court below shall hear the suit finally and dispose of the suit positively before 31.12.2015.

The civil revision petition is accordingly allowed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

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VILAS V. AFZULPURKAR, J

November 7, 2015

**LMV**