

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.733 of 2015

ORDER :

Heard Sri G. Sravan Kumar, counsel for petitioner. None appears for respondent even though notice in the Revision has been served on respondent.

2. This Revision is filed under Article 227 of the Constitution of India challenging the order dt.19.01.2015 in I.A.No.389 of 2014 in O.S.No.202 of 2013 on the file of Principal Junior Civil Judge, Dhane refusing to send suit promissory note dt.26.05.2010 along with specimen signatures of petitioner, after obtaining them in open court, to forensic and handwriting expert for his opinion.
3. The petitioner filed I.A.No.389 of 2014 contending that the suit promissory note dt.26.05.2010 is forged and he prayed that the same may be sent to a handwriting expert for comparison with the specimen signatures, obtained in the open court.
4. Counter-affidavit was filed by respondent opposing this application. He contended that this application was filed only to drag on the suit proceedings and is not *bona fide*; that there is no specific plea of forgery in the written statement filed by petitioner; that no reply notice was given to the suit notice by petitioner; the admitted signatures of petitioner are available in the Court and there was no suggestion to PW.2 that A.1 is forged; and that the Court itself can make comparison.

5. By order dt.19.01.2015, the Court below dismissed the said application. It held that petitioner did not file any contemporary signatures for comparison with the signatures to be taken in open court; that sending of the document to an expert routinely consumes precious time of the Court; and that the Court can itself compare the signatures as per Section 73 of the Evidence Act, 1872.
6. Challenging the same, the present Revision is filed.
7. After perusing the written statement filed by petitioner/defendant, it is clear that there is a specific plea taken by petitioner that her signature had been forged on the suit promissory note Ex.A.1. At the stage when the application was filed, the evidence of petitioner had not been closed. The petitioner had anyway offered to provide sample signatures in the open court. Even otherwise since she was employed in the Health Department of the Government of Andhra Pradesh, it would not be difficult for her to procure other admitted signatures. Therefore, on the ground that contemporaneous signatures are not filed by petitioner, the application cannot be dismissed.
8. That apart, while the Court is, no doubt, empowered to compare signatures under Section 73 of the Evidence Act, 1872, since the Courts are not having the expertise in doing so, applications for sending the disputed documents to a handwriting expert can be filed and such applications can be ordered in view of Section 45 of the Evidence Act, 1872. The expert opinion would also be considered by the Court while deciding whether or not to accept a document as genuine.

9. In this view of the matter, I am of the opinion that the Court below was not correct in rejecting I.A.No.389 of 2014.
10. Therefore, the Civil Revision Petition is allowed and the order dt.19.01.2015 in I.A.No.389 of 2014 in O.S.No.202 of 2013 on the file of Principal Junior Civil Judge, Dhone is set aside; and the said I.A. is allowed. No order as to costs.
11. As a sequel, miscellaneous petitions pending, if any, in this Revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 23.09.2015

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