

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

C.R.P.No.3194 of 2015

ORDER:

Heard Sri V.Hari Haran, learned counsel for the petitioner and Sri A.Satish Babu, learned counsel for the respondent.

2. This Revision Petition is filed challenging the order dt.03-07-2015 in I.A.No.88 of 2015 in O.S.No.261 of 2009 of the II Additional Senior Civil Judge, Warangal.
3. Petitioner herein is the defendant in the suit. The respondent/plaintiff filed the suit for recovery of money against the petitioner on the basis of a promissory note. Written Statement was filed by the petitioner denying the execution of the promissory note. P.Ws.1 and 2 were examined by the respondent and thereafter the petitioner entered the witness box. In the witness box, the petitioner denied her signatures on Exs.A-1 and A-3 which are the suit documents.
4. In this view of the matter, the respondent filed I.A.No.88 of 2015 under Section 45 of the Evidence Act, 1872 to send these two documents to an expert for comparison of the signatures purporting to be that of the petitioner on suit documents together with her admitted signatures on the vakalat, Written Statement and petitions filed by her.
5. This was opposed by the petitioner stating that the signatures on vakalatnama and written statement and signatures obtained in open Court are not contemporaneous with the suit documents and therefore no experts opinion can be sought.
6. By order dt.30-07-2015, the Court below allowed the said

application.

7. It is pertinent to note that before the Court below, the petitioner's counsel did not submit any arguments but it adverted to the contention of the petitioner and the response of the respondent's counsel thereto that he is prepared to place on record the admitted signatures of the petitioner pertaining to the period of Ex.A-1.
8. Learned counsel for the petitioner contends that the application has been moved six years after the suit is filed and therefore the Court ought not to have entertained it.
9. This contention is without any basis because this Court in **Janachaitanya Housing Ltd. rep. by its Managing Director, Sri Madala Sudhakar Vs. Divya Financiers, A Proprietorship firm rep. by its Proprietrix, Ms. Gorantla Anjali** has held that no time limit to send documents to expert under Section 45 of the Evidence Act, 1872 can be fixed as a hard and fast rule and that it is a matter of discretion of the Court.
10. Since the main issue in the suit is in relation to the genuineness of Ex.A-1, I am satisfied that the Court below has correctly exercised its discretion in allowing I.A.No.88 of 2015.
11. I therefore do not find any merit in the Civil Revision Petition and the same is accordingly dismissed. No costs.
12. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 06-10-2015

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