

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 2848 of 2016

ORDER:

1) The present Civil Revision Petition is filed under Article 227 of the Constitution of India, challenging the order dated 04.04.2016 in I.A.No.43 of 2015 in O.S.No.144 of 2010 on the file of the Additional Senior Civil Judge, Tirupati, wherein the petition filed under Section 45 of the Indian Evidence Act to send the agreement of sale to the Hand Writing expert of Government Forensic Science Laboratories, Hyderabad, for comparison, which was rejected.

2) As seen from the record, O.S.No.144 of 2010 came to be filed basing on an agreement of sale to get regular registered deed in respect of plaint schedule property. In the said suit the defendant contended that the agreement of sale is forged and fabricated. A perusal of the material on record also discloses that the petitioner filed I.A.No.43 of 2015 under Section 45 of the Evidence Act to send the suit agreement of sale to the hand writing expert for his opinion. The same was allowed. The expert addressed a letter to send further admitted signature for verification so as to give his opinion. Thereafter, the defendant filed a petition under Order 13 Rule 10 read with Section 151 of C.P.C. vide I.A.No.247 of 2016 to send account opening application of the defendant and also the minutes book of the society wherein the defendant subscribed her signature in the said

book while she worked as Secretary of the society. The said application was rejected. In view of the dismissal of I.A.No.247 of 2016; as the petitioner could not file any contemporaneous documents of the year 2008 and the petitioner under the guise of the petition has been dragging the suit proceedings, closed I.A.No.43 of 2015. Aggrieved by the same the present Civil Revision Petition is filed.

3) It appears that the impugned order came to be passed in view of dismissal of I.A.No.247 of 2016 where the petitioner requested for sending the documents to expert. But at the same time it is to be noted that earlier this I.A. was allowed, pursuant to which the agreement of sale was sent to an expert. Apart from that the record discloses that pending this C.R.P. the petitioner herein filed another I.A. under Order 16 Rules. 6 and 7 read with Section 151 of C.P.C. to issue summons to the witnesses for production of the documents, which is pending.

4) In view of the subsequent I.A. filed, the order under challenge is hereby set aside.

5) Accordingly, the Civil Revision Petition is allowed. There shall be no order as to costs. Miscellaneous Petition, if any, pending in this Civil Revision Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

12.09.2016
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