

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.No.85 of 2016

ORDER:

Heard learned counsel appearing for the parties.

The plaintiff in O.S. No.47 of 2007 in the Court of Senior Civil Judge, Kavali, is the revision petitioner. The C.R.P. is directed against the order in I.A. No.94 of 2015. 1st respondent in this C.R.P. filed the said application under Section 45 of the Evidence Act to send disputed agreement of sale dated 11.01.1992 along with the original receipt dated 02.07.1998 for the opinion of an expert. The said application was allowed by the trial Court. Hence, the revision.

Learned counsel for the parties made submissions in great detail on the merits of the matter. I have taken note of the submissions and perused the order under revision. *Prima facie*, I am of the view that the order impugned in the revision is not a speaking order and does not consider under Section 45 of the Evidence Act or Order 26 Rule 10A of Civil Procedure Code but granted the prayer on the ground that "to void further complications and to come to the correct conclusions, this Court holds it is just and necessary to send the disputed documents for comparing". Having perused the material on record, I am of the view that such reasoning does not satisfy the requirement of disposal of an application made with a substantive prayer. On this short ground the order impugned in the revision is set aside and matter is remitted to trial Court for disposal in accordance with law. The parties are given liberty to make submissions on merits. It is expected that the learned trial Judge would consider the objections and pass orders in accordance with law. The C.R.P. is allowed and remanded. No order as to costs.

Miscellaneous petitions pending if any shall stand closed

S.V.BHATT,J

Date:26.02.2016
Note:
C.C. in one week.
B/o.
Stp