

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CIVIL REVISION PETITION Nos.4978 and 4979 of 2016

COMMON ORDER

Since the issue involved in these two civil revision petitions is one and the same, they are being disposed of by way of common order.

2. These two Civil Revision Petitions, under Article 227 of the Constitution of India, are filed aggrieved by the order and decree, dated 19.09.2016 in I.A.Nos.215 and 216 of 2016 in O.S.Nos.22 and 25 of 2012 on the file of I Additional District Judge, Srikakulam.

3. The revision petitioner herein is the defendant in the aforesaid suits. He filed the aforesaid Interlocutory Applications under Order XI Rule 4 read with 151 C.P.C praying the Court to order Divisional Electrical Engineer (Operation), APEPDCL, Srikakulam and the Branch Head, Axis Bank Limited, Srikakulam to produce TA Bills for the months of January and February, 2009 and any other documents containing his signatures and to order Branch Head, Axis Bank Limited, Srikakulam to produce account opening form of A/c.No.536010100048374 and transactions made in the year 2009.

4. The Court below, after considering the material on record, dismissed both the applications on the ground that such applications are filed at belated stage. Challenging the same, these two Civil Revision Petitions are filed.

5. Heard learned counsel for the petitioner and the learned counsel for the respondent-caveator.

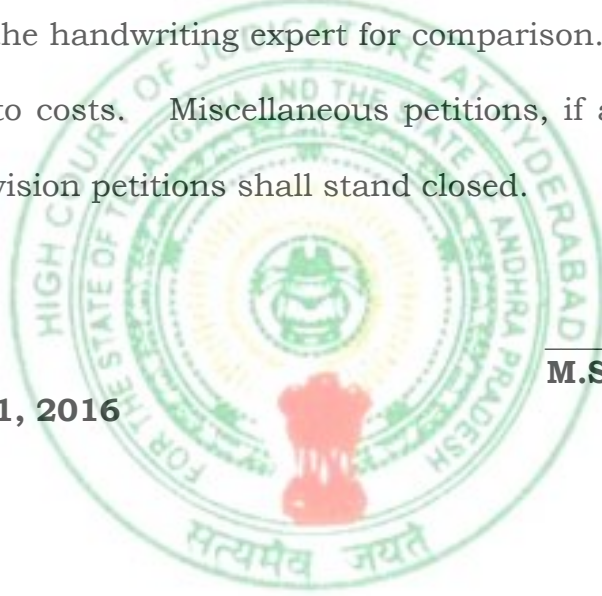
6. The respondent/plaintiff filed the aforesaid suits against the petitioner/defendant for recovery of amount based on two promissory notes. In the said suits, the defendant filed written statements denying his signature on the promissory notes. Thereafter, the petitioner filed I.A.Nos.540 and 223 of 2012 to send the promissory notes to the handwriting expert. The said petitions were allowed on 02.09.2014, but, however, the promissory notes were not sent to handwriting expert for comparison and it is represented that only on 05.07.2016 i.e., nearly two years after the order, the promissory notes were sent to expert opinion on 22.08.2016 and they have been returned with a direction to the Court to produce the contemporaneous signatures of the petitioner/defendant.

7. The order of learned trial Court that the petitioner filed the applications at belated stage is incorrect. It is not as though the petitioner filed the petitions in the year 2016. As already said the applications for sending the promissory notes to expert were filed as long back as in the year 2012 i.e., when the suit itself was instituted and on 02.09.2014 the said application were allowed. However, for the reasons best known, no steps have been taken to send the signatures of the petitioner so as to compare the same. In that view of the matter, the prayer of the petitioner to summon the records from the officials as mentioned in the affidavits cannot be said to be at belated stage.

8. Accordingly, these two Civil Revision Petitions are allowed setting aside the order, dated 19.09.2016, in I.A.Nos.215 and 216 of 2016 in O.S.Nos.22 and 25 of 2012 on the file of I Additional District Judge, Srikakulam. In addition to the documents mentioned in the affidavits, the Court below is directed to call for the admitted signatures of the petitioner/defendant in State Bank of India and Andhra Bank at Amadalavalasa, which shall be furnished by the petitioner/defendant during the year 2009. As and when the documents relating to the year 2009 are received from the authorities concerned, the Court below is directed to send the same to the handwriting expert for comparison. There shall be no order as to costs. Miscellaneous petitions, if any, pending in these civil revision petitions shall stand closed.

OCTOBER 21, 2016
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M.S.K.JAISWAL, J



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Date: 21.10.2016

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