

**The Hon'ble Sri Justice C.V.Nagarjuna Reddy**

**Civil Revision Petition No.2397 of 2016**

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**Date: 03.06.2016**

**Between:**

Bera Loka Malleswara Rao

**.. Petitioner**

**and**

Lanka Samba Sekhar

**.. Respondent**

**Counsel for the petitioner : Mr.K.Subrahmanyam**

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**The Court made the following:**

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**Order:**

This Civil Revision Petition arises out of Order, dated 31-07-2015, in IA.No.674 of 2015 in OS.No.55 of 2014, on the file of the Court of the learned Senior Civil Judge, at Narsipatnam.

The respondent filed the above-mentioned suit for recovery of money based on Ex.A.1-Promissory note. The petitioner filed the written statement denying execution of the promissory note and pleaded that the same is an out and out forgery. After completion of the evidence of PWs.1 to 3, the petitioner filed the above-mentioned IA under Section 45 of the Indian Evidence Act, 1872, to send the suit promissory note for expert's opinion. This Application was dismissed by the lower Court.

In my opinion, once the petitioner has raised the plea of forgery, the initial burden is on the respondent/plaintiff to prove that the suit promissory note is genuine. Therefore, it was for the respondent to seek sending of the suit promissory note for expert's opinion. The respondent having not taken such a step, it is wholly unnecessary for the petitioner to take the initiative of sending the suit promissory note for expert's opinion. In this view of the matter, I do not find any reason to interfere with the order of the lower Court.

The Civil Revision Petition is, accordingly,

dismissed.

As a sequel to dismissal of the Civil Revision  
Petition, CRPMP.No.3055 of 2016, filed by the  
petitioner for interim relief, is disposed of as  
infructuous.

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**(C.V.Nagarjuna Reddy, J)**

**Dt: 3<sup>rd</sup> June, 2016**  
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