

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CIVIL REVISION PETITION Nos.3334 & 3432 of 2016

COMMON ORDER:

Both the Civil Revision Petitions are filed by the petitioner/plaintiff under Article 227 of the Constitution of India, aggrieved by the orders, dated 24.06.2016, in I.A.Nos.697 of 2016 and 698 of 2016 in O.S.No.69 of 2008, passed by the Senior Civil Judge, Ramachandrapuram.

2. Heard and perused the material available on record. Since both the civil revision petitions arise out of the same suit, they are being disposed of by way of a common order.

3. The petitioner/plaintiff filed the I.A.No.697 of 2016 in O.S.No.69 of 2008 before the Senior Civil Judge, Ramachandrapuram, under Section 45 of the Indian Evidence Act to take signatures of the respondent/defendant both in Telugu and English and send the same to the handwriting expert for comparison of her signatures with disputed signatures on Ex.A-1 – Promissory Note, whereby and whereunder the learned Judge dismissed the I.A.No.697 of 2016.

4. The petitioner/plaintiff filed the I.A.No.698 of 2016 in O.S.No.69 of 2008 before the Senior Civil Judge, Ramachandrapuram, under Section 45 of the Indian Evidence Act to send the thumb impressions both left and right hand of respondent/defendant Velpuri Venkatalakshmi to handwriting expert for opinion, whereby and whereunder the learned Judge dismissed the I.A.No.697 of 2016. Aggrieved by the said orders, the petitioner/plaintiff filed the present civil revision petitions.

5. The trial Court refused to send the signatures of the respondent/defendant for comparison with the available signature in the alleged promissory note executed by the respondent/defendant and also refused to send the thumb impression of the respondent/defendant on the following grounds:

(1) that the respondent/defendant sent thumb impressions to the handwriting expert for comparison as per orders in I.A.109/2016 and the expert's opinion was received by the trial Court. As per expert's opinion, the thumb impression contained on Ex.A1 promissory note was not identical with the admitted thumb impression. On receipt of the said opinion from the expert, the I.A.No.698 of 2016 was filed by the petitioner/plaintiff to send the thumb impression of both the hands of the respondent/defendant to handwriting expert for comparison. When once the thumb impression was already sent and opinion was given by the expert, then there is no necessity to send the thumb impression of the respondent/defendant again to the handwriting expert for comparison with the disputed thumb impression of the respondent/defendant on Ex.A-1.

(2) Since the matter is an oldest matter, which is pending before the trial Court and the said petitions were filed only to drag on the matter and on the other hand, though there may be variance in the signature in a time gap, the thumb impression cannot be changed at any point of time and the edges are one and the same and even without comparison of the signatures of the respondent/defendant, the matter can be decided.

6. Learned counsel for the petitioner submitted that when the thumb impression of the respondent/defendant was sent

for comparison, the Court obtained left hand thumb impression for the purpose of comparing the thumb impression, whereas the handwriting expert has given his opinion that the thumb impression, which is in question is right hand thumb impression and necessarily, the same is not tallied with the thumb impression sent for comparison and the learned counsel for the petitioner further submitted that in view of the same, the right hand thumb impression as well as the signatures available in Ex.A-1 – promissory note before the trial Court to be sent for the handwriting expert opinion.

7. Taking into consideration the facts and circumstances of the case and the submissions of the learned counsel for the petitioner, this Court is of the view that even if the handwriting expert's opinion is either in favour or against the petitioner, the trial Court can decide the issue on the basis of the other material available.

8. Accordingly, both the Civil Revision Petitions are disposed of. The Senior Civil Judge, Ramachandrapuram, is directed to send the signatures of the respondent/defendant in Ex.A-1 – Promissory Note and also to obtain the right hand thumb impression of the respondent/defendant and send the same for comparison and the petitioner/plaintiff is directed to bear the entire expenses for sending the signatures and right hand thumb impression of the respondent/defendant to the handwriting expert for comparison of her signatures with disputed signatures on Ex.A-1 – Promissory Note and the trial Court is directed to expedite the matter by forwarding a letter to the handwriting expert to give his opinion within a period of three (3) months. There shall be no

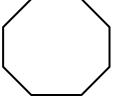
order as to costs. Miscellaneous Petitions, if any, pending in these civil revision petitions shall stand closed.

RAJA ELANGO, J

Date: 28th September, 2016

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