

HON'BLE SRI JUSTICE R.KANTHA RAO
C.R.P.Nos.1376 & 1386 of 2016

COMMON ORDER

CRP No.1376 of 2016 is directed against the order dated 8.2.2016 passed in I.A.No.45 of 2015 in O.S.No.14 of 2013 by the VI Additional District Judge, Kakinada East Godavari District.

CRP No.1386 of 2016 is directed against the order dated 8.2.2016 passed in I.A.No.185 of 2015 in O.S.No.33 of 2013 by the VI Additional District Judge, Kakinada, East Godavari District.

Since the issue involved in both the Civil Revision Petitions is one and the same, they are being disposed of by this common order.

Heard learned counsel appearing for the petitioner-defendant and learned counsel appearing for the respondents-plaintiffs.

The revision petitioner is the defendant and respondents are the plaintiffs. The plaintiffs instituted suits for recovery of amount based on the promissory notes. After examination of PWs.1 and 2, the defendant filed I.A.Nos.45 of 2015 & 185 of 2015 under Section 45 of the Indian Evidence Act read with Section 151 CPC to send the promissory notes dated 14.10.2010 & 8.4.2010 to the

hand writing expert for comparison of his signatures with the admitted signatures.

The respondents-plaintiffs resisted the said application by filing counter contending that no specific plea was taken by the defendant in his written statement; that the defendant himself scribed the said promissory notes; that only to protract the trial of the suit, the defendant has filed the petitions and hence, sought to dismiss the same.

After hearing the arguments and upon perusing the documents available, the trial Court dismissed the petitions.

Learned counsel appearing for the revision petitioner contended that the promissory notes were created as security for the business transaction between the parties.

Though the defendant stated that promissory notes are not genuine, as rightly observed by the trial Court, no specific plea of forgery was taken in the written statement. Further, no contemporaneous signatures were submitted by the petitioner-defendant before the trial Court which would enable the expert to compare and give his opinion. The trial Court further observed that in the cross-examination no specific question was put to the plaintiffs that the signatures on the promissory notes were forged.

As seen from the record, it is obvious that the

plaintiffs and the defendant are none other than cousins and they are known to each other. The defendant himself is the scribe of the alleged suit promissory notes. No other documents were available to send for expert opinion for comparison of the disputed signatures on the alleged pronotes. The signatures available on the vakalat and written statement cannot be the basis to form an opinion. On mere filing an application under Section 45 of the Evidence Act, it is not obligatory on the part of the trial Court to send the signatures on the promissory notes to hand writing expert for comparison. The trial Court recorded cogent reasons for dismissing the petitions and the impugned orders do not require any interference by this Court.

Accordingly, both the Civil Revision Petitions are dismissed.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE R.KANTHA RAO

17th March, 2016

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