

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.1407 OF 2016

DATED:18-03-2016

Between:

Chegu Niranjana Rao ... Petitioner

And

Chegu Papa Rao ... Respondent

COUNSEL FOR THE PETITIONER: Mr. K. Venkateswarlu

COUNSEL FOR THE RESPONDENT: Mr. Lakkadi Dayakar Reddy

THE COURT MADE THE FOLLOWING:

ORDER:

This civil revision petition arises out of order dt.23.2.2016 in I.A. No.87 of 2016 in O.S. No.135 of 2009, on the file of the Principal Junior Civil Judge, Sattenapalli.

I have heard the learned counsel for both the parties and perused the record.

The respondent has filed the above mentioned suit for specific performance of an agreement of sale. In the said suit, he has filed I.A. No.314 of 2015 under Section 45 of the Indian Evidence Act, for sending the alleged agreement of sale for opinion of the Forensic Science Laboratory (FSL), Hyderabad, on the genuineness or otherwise of the document. The said application was allowed by the lower Court by order dt.28.7.2015. In pursuance of the said order, the FSL gave its opinion in favour of the respondent and against the revision petitioner. Obviously in order to overcome the said opinion, the petitioner has immediately approached a private handwriting expert, obtained an opinion from him and has filed the above mentioned I.A. No.87 of 2016 for admitting the same in evidence. The lower Court, while rejecting the said application, observed that the case has been coming up for the petitioner's side evidence from 10.11.2014, that since then he has not adduced any evidence till 7.1.2016 for a period of more than two years, and that in view of the same, the evidence on the petitioner's side was closed on 7.1.2016 and the case was posted for arguments. That on 02.2.2016 the lower Court has received an order in Transfer O.P. No.195 of 2015 dismissing the application filed by the petitioner for transferring the suit to some other Court and that on 21.1.2016 the petitioner filed an application to reopen the evidence. The lower Court further observed

that it does not send the suit documents to private experts for opinion.

The conduct of the petitioner shows that he was resorting to intentionally delaying the proceedings on one pretext or the other. From the facts noted above, it is clear that there is already an expert's opinion obtained from the FSL, which is a government organization. Under Section 45 of the Indian Evidence Act, 1872 (for short, 'the Act'), the opinion of the expert constitutes a relevant fact, but at the same time the same is not binding on the Court. Under Section 73 of the Act, the Court itself can compare the signature, handwriting, seal or thumb impression. Therefore, as observed by the lower Court, it would be a futile exercise if the petitioner is permitted to file the opinion of a private expert in the face of the opinion already obtained from the Government FSL.

For the above mentioned reasons, I do not find any merit in this civil revision petition and the same is accordingly dismissed.

As a sequel to dismissal of the civil revision, C.R.P.M.P. No1776 of 2016 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

18-03-2016

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