

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.5672 of 2015

ORDER:

This Revision Petition is filed under Article 227 of the Constitution of India challenging the Order dt.05-11-2015 in I.A.No.125 of 2015 in O.S.No.190 of 2009 of the II Additional Junior Civil Judge, Warangal.

2. The respondent filed the above suit for perpetual injunction against the petitioners alleging that her brother one P.Bhaskar Rao had registered a gift settlement deed

dt.20-05-2013 in her favour in respect of the suit schedule property and that her brother had in fact, purchased it under Ex.A-1

dt.08-06-1985 from the father of 1st petitioner by name Emmadi Sailu.

3. The petitioners/defendants denied the execution of Ex.A-1 by the father of 1st petitioner.

4. Therefore, the respondent filed I.A.No.125 of 2015 contending that 1st petitioner's father had been employed in the E.S.I. hospital prior to his death; that his signatures are available in the salary acquittance register of that organization; that the petitioners themselves had called for the original salary acquittance register and

confronted the same to respondent, and therefore it is necessary to compare the signatures purporting to be that of the father of 1st petitioner on Ex.A-1 with that of his signatures appearing in the salary acquittance register of the ESI hospital.

5. This application was opposed by the petitioners contending that the petition is premature and the evidence of respondent is still going on. They further alleged that respondent is not a party to the agreement and therefore she cannot seek relief of comparison of signatures of the father of 1st petitioner on the said agreement with those in the salary acquittance register of the ESI hospital.

6. By order dt.05-11-2015, the Court below allowed the said application. It held that respondent was justified in seeking comparison of the signatures because unless P.W.2, her brother, acquired valid title under Ex.A-1, he cannot pass better title in favour of the respondent and if on comparison by expert, it is found that Ex.A-1 is forged, then respondent cannot get any relief in the suit. It further observed that when there is dispute with regard to the signature, the opinion of the expert in comparison of the handwriting/ signature would also be relevant factor and no prejudice would be caused to the petitioners if the signature on Ex.A-1 purporting to be that of 1st petitioner's father is compared with his signature in

the salary acquittance register of ESI hospital.

7. Challenging the same, this Revision Petition is filed.

8. Since respondent is contending that she got the property under gift deed from her brother who obtained it under Ex.A-1 from the father of 1st petitioner, the respondent is entitled to establish that the signature on Ex.A-1 is that of the father of 1st petitioner by having it compared with his signatures in the salary acquittance register of ESI hospital where he worked. The fact that the petitioners are not the parties to Ex.A-1 is irrelevant and no prejudice would be caused to the petitioners if both the documents are compelled.

9. I therefore do not find any merit in the Civil Revision Petition and the same is accordingly dismissed. No costs.

10. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 18-01-2016

kvr