

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.No.4973 OF 2015

ORDER:

Heard Mr.G.Venkat Reddy, learned counsel for petitioners and Mr.A.Chandrsekhar, learned counsel for respondent.

The revision is directed against the order dated 05.11.2015 in I.A.No.524 of 2014 in O.S.No.39 of 2014. The revision petitioners filed the said application under Section 45 of the Indian Evidence Act to send the disputed signatures of 1st revision petitioner on Exs.A-1 to

A-3 for the opinion of Handwriting Expert, Forensic Laboratory, Red Hills, Hyderabad. Through the order impugned in revision, the learned trial Judge has dismissed the application. Hence, the revision.

Learned counsel for the petitioners contends that the trial Court did not properly exercise the jurisdiction vested in it under Section 151 CPC read with Section 45 of the Indian Evidence Act. The primary objection against the observations of the learned trial Judge is that the so called admission in pleading is wrongly understood by the trial Court. Thus, there is failure in understanding the reason why the revision petitioners prayed for sending the disputed signatures for the opinion of handwriting expert. Learned counsel for the petitioners relied upon the decisions reported in

GURU GOVINDU V. DEVARAPU VENKATARAMANA and MATHANGI DEVASAHAYAM V. JETTY MANIKYAMMA AND OTHERS.

Learned counsel appearing for the respondent contends that the trial Court, having regard to the totality of circumstances of the case and the pleadings on record, exercised the discretion not to send the disputed signatures for the opinion of expert. The revision petitioners were given sufficient opportunity to cross-examine the witnesses examined on behalf of the respondent herein and if the defendants have failed to elicit any information from the witnesses in the cross-examination, the request of revision petitioners to send the disputed signatures to an expert, more

particularly when the opinion of expert does not have conclusive value, this Court ought not to interfere with the impugned order in its jurisdiction under Article 227 of the Constitution of India. Learned counsel placed reliance upon **MORTHA VIMALA V. GOUTHU RAJULU AND ANOTHER** and **M.NARSI REDDY v. V.RAGHU RAM NAIDU AND ANOTHER**.

I have perused the material available on record and noted the contentions urged by the counsel appearing for the parties. The defendants are revision petitioners. The evidence on behalf of respondent herein, it is admitted by the counsel appearing for the parties, is completed. The matter is posted for evidence of revision petitioners. The revision petitioners now request the Court to send the disputed signatures for expert's opinion. The trial Court, in my considered view, has exercised its discretion and rightly rejected the prayer of the revision petitioners. But a few of the reasons recorded by the trial Court may not be necessary for disposal of the present application. The burden of proof is on respondent herein on execution of the promissory note and other endorsements on suit pronote. The respondent by relying on endorsements contends that the suit is within time. The revision petitioners in their turn can discharge the onus cast on them having regard to the issues framed by the trial Court. I am in agreement with the result of dismissal of I.A.No.524 of 2014 in O.S.No.39 of 2014, but this Court directs the trial Court to consider O.S.No.39 of 2014 on its own merits from the pleadings and evidence adduced by the parties, uninfluenced with the findings recorded in the instant order.

I do not see any jurisdictional error or illegality warranting re-appreciation, much less interfere with the impugned order. The jurisdiction is properly exercised by the trial Court. No ground for interference under Article 227 of the Constitution of the India is made out.

Revision fails and is accordingly dismissed. No costs.

Consequently, pending miscellaneous petitions, if any, also stand disposed of.

S.V.BHATT, J

05th February 2016

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