

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL REVISION PETITION No.3618 of 2013

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, by the unsuccessful petitioner/ plaintiff is directed against the orders dated 21.01.2013 of the learned II Additional Chief Judge, City Civil Courts, Hyderabad, passed in I.A.No.2457 of 2012 in I.A.No.3402 of 2010 in O.S.No.581 of 2010 filed under Section 45 of the Indian Evidence Act requesting to send the Will deed dated 20.03.2001 said to have been executed by P.V.Chacko to an expert for obtaining an opinion as to the age of the ink of the signature of the executant of the said Will.

I have heard the submissions of Sri M.V.Subba Reddy, learned counsel appearing for petitioner/plaintiff, and of Sri S.Sridhar, learned counsel appearing for the respondents. I have perused the material record.

The facts which are necessary to be stated as a preface to this order, in brief, are as follows:

In the aforesaid suit filed for recovery of money, attachment of property was sought in I.A.No.3402 of 2010. The respondents/ defendants having filed a claim petition in respect of the property attached in I.A.No.3402 of 2010, placed reliance on a Will dated 20.03.2001 said to have been executed by P.V.Chacko. The respondent in the claim petition, who is the plaintiff, filed the subject application seeking the aforementioned relief. The said application was resisted by the claim petitioners. On merits and by the order impugned in this revision, the trial Court dismissed the petition of the plaintiff. Therefore, the plaintiff is before this Court.

Learned counsel for the petitioner/plaintiff would submit that on the face of it, the Will is executed under suspicious circumstances and that the Will is created and, therefore, the plaintiff is constrained to file the subject application seeking the aforementioned relief and that, in the facts and circumstances of the case, the trial Court ought to have allowed the said application.

Learned counsel for the respondents/defendants, while supporting the orders of the Court below, would bring to the notice of this Court that as of now there is no technology available with the forensic experts in India to determine the age of the ink of a signature or hand writing. Further, mere determination of the age of the ink of disputed signature, even if there exists any science or technology for that purpose, cannot by itself determine the approximate date on which or the time at which the signature was made, as it is possible that the executant might have made the signature with a pen containing the ink which was manufactured long time prior to the making of the signature. To put it in other words there might be time lag between the date of the manufacture of the ink and the date on which the signature was made and in such a case the determination of the age of ink would be irrelevant and does not serve any purpose.

Be that as it may, it is fairly conceded at the hearing that the claim petition is already allowed after full-fledged enquiry and that no appeal against it is filed and pending. In that view of the matter, this Court finds that there is no merit in this revision and no cause survives for adjudication as well.

Accordingly, the civil revision petition is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this civil revision petition shall stand closed.

23.11.2016
v v

M. SEETHARAMA MURTI, J

