

*** HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

+ CIVIL REVISION PETITION No.1698 OF 2016

% 23rd December, 2016

Takkella Radhakrishnaiah and two others

... Petitioners..

AND

\$ Ganipaineni Nagaraju

... Respondent

! Counsel for the Petitioners : Sri P. Sridhar Reddy

^ Counsel for the respondent : Sri P. Subash

< Gist:

> Head Note:

? Cases referred:

1. 2014 (1) ALD 521
2. AIR 2008 Supreme Court 2010
3. 1971 (1) SCC 396
4. 2010 lawSuit (mad) 991
5. 2012 LawSuit (Mad) 1688
6. 2013 LawSuit (Mad) 1195
7. 2014 LawSuit(Mad) 2270
8. 2013 LawSuit (Mad) 2533
9. 2012 LawSuit (Mad) 2538
10. 2010 LawSuit (Mad) 3979



THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.1698 of 2016

ORDER:

This Civil Revision Petition is directed against the docket order dated 08.03.2016 passed by the learned I Additional District Judge, Nellore in I.A.No.146 of 2016 in O.S.No.177 of 2011.

The case of the petitioner is that the signatures and the matter in the promissory note dated 20.02.2010 were filled up on different dates. He filed an Application seeking to send the same for scientific examination through experts. That Application came to be dismissed, taking into consideration the judgment rendered by this Court in **Kambala Nageswara Rao v Kesava Balakrishna¹**, wherein it has been noticed that as of date, no expert is available to determine such aspect.

Learned counsel for the petitioner places reliance upon Paragraph 10 of the judgment of the Supreme Court in **T. Nagappa v Y.R. Muralidhar²**, whereunder, in similar circumstances, the Application of this nature came to be allowed.

On the other hand, learned counsel for the respondent, apart from the judgment in **Union of India v Jyoti Prakash Mitter³**, had placed reliance on plethora of judgments rendered by Madras High Court in **R. Jagadeesan v N. Ayyasamy and ANR⁴**, **K. Vairavan v Selvaraj⁵**, **Selvaraj v Kolandayee⁶**, **A. Thiyagarajan v G. Ramachandran⁷**, **Dhanalakshmi Mills Ltd., v R.**

¹ 2014 (1) ALD 521

² AIR 2008 Supreme Court 2010

³ 1971 (1) SCC 396

⁴ 2010 lawSuit (mad) 991

⁵ 2012 LawSuit (Mad) 1688

⁶ 2013 LawSuit (Mad) 1195

⁷ 2014 LawSuit(Mad) 2270

Krishnamurthy and Ors.,⁸, R. Tharmambal v V. Christopher Moni Prakash⁹ and V. Makesan v T. Dhanalakshmi¹⁰, wherein taking into account and consideration the non-availability of the scientific expert in the country to determine whether a particular document is written on a particular date or on different dates, opined that sending such document to the experts is only a futile exercise. Learned counsel for the respondent also submits that the judgment dated 19.03.2010 in S.L.P. (Criminal) 2033 of 2010 filed by N. Ayyasamy against R. Jagadeesan, the judgment in **R. Jagadeesan's case** (4 supra) stands confirmed on account of the dismissal of the said S.L.P. It may also be noticed that in **R. Jagadeesan's case** (4 supra) the judgment **T. Nagappa case** (2 Supra) cited by the learned counsel for the petitioner was also considered. In the absence of the scientific expert, even if the argument of the petitioner was to be considered, on account of the impracticability involved, it would be only a futile exercise. In that view of the matter, the order of the lower Court does not call for any interference. Therefore, this Civil Revision Petition is liable to be dismissed.

Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs.

Consequently, the Miscellaneous Petitions, if any pending, shall stand closed.

CHALLA KODANDA RAM, J.

Date:23.12.2016
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⁸ 2013 LawSuit (Mad) 2533

⁹ 2012 LawSuit (Mad) 2538

¹⁰ 2010 LawSuit (Mad) 3979