

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.5339 of 2011

ORDER:

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This Civil Revision Petition, under Article 227 of the Constitution of India, by the petitioners/defendants, is directed against the order dated 20.09.2011 of the learned VII Additional District Judge, Visakhapatnam passed in I.A.No.914 of 2011 in O.S.No.393 of 2004.

2. I have heard the submissions of the learned counsel for the revision petitioners and I have perused the material record.

3. The learned counsel for the revision petitioners would submit that at the request of the petitioners/defendants, the trial Court by its orders directed that the documents with the disputed thumb impressions and the admitted thumb impressions be sent to an expert for comparison and for furnishing an opinion by the expert in regard to the genuineness of the thumb impressions, which are disputed, and that after the said orders of the trial Court allowing the application in that regard, the trial had made progress and that subsequently, the present application is filed by the petitioners requesting the trial Court to direct, in the interest of justice, to send for the original Vakalat and complaint in CD No.568 of 2003 from the District Consumer Forum, Visakhapatnam to the trial Court to facilitate sending of the said documents also to the expert for obtaining his opinion after comparing the thumb impressions on the said documents available in the said record with the disputed thumb impressions on the Hiba under exhibit P3 and that the respondent herein/plaintiff filed a counter resisting the said application and that by the impugned orders, the trial Court had dismissed the said application of the revision petitioners on the ground that it is highly belated and that the documents with the thumb impressions of the first plaintiff are available on the record of the Court and it would be sufficient to send the said documents to an expert for comparison and for furnishing his opinion and that therefore, there is no necessity to send for the Vakalat and complaint from the record in the case before the District Consumer Forum, Visakhapatnam as there is no necessity to call for and send the said documents to the expert, as requested in the application of the

revision petitioners.

4. The learned counsel for the revision petitioners would further submit that the trial Court, having allowed the earlier application in I.A.No.913 of 2011 and having passed orders directing to send certain documents in the suit with the thumb impression along with the Hiba under exhibit P3 to a finger print expert for comparison and for his opinion, ought to have also allowed the subsequent present application in I.A.No.914 of 2011 and ought not to have dismissed the same on the ground that it is belated. He would also submit that if the said request is considered some more documents with the thumb impressions would be available for being furnished to the expert for comparison and that, therefore, no prejudice would be caused to the plaintiffs and that, therefore, the order impugned is erroneous.

5. It is undisputed that the document which is being disputed contains the thumb impression, but not the signature. The trial Court was of the view that the thumb impressions on the Vakalat and other documents which are already available on record are sufficient for comparison with the disputed thumb impression on the Hiba under exhibit P3 and that there is no necessity to call for any further records like vakalat and complaint petition from the District Consumer Forum, Visakhapatnam. In the well considered view of this Court, there is no need to look for contemporaneous thumb impressions for being sent to an expert, more particularly when the trial Court, which was dealing with the matter was satisfied that the thumb impressions on the documents already available on record are sufficient for comparison and that there is no need to send for the Vakalat and the complaint in C.D.no.568 of 2003. When the trial Court is satisfied that there is sufficient material in the form of documents for being sent to an expert for obtaining his assured opinion, in the well considered view of this Court, there is no need to upset the order impugned.

6. Viewed thus, this Court finds that there is no merit in this Civil Revision Petition and the same is liable to be dismissed.

7. 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 dismissed.

M.Seetharama Murti, J

01st February, 2016
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