

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.5062 OF 2011

JUDGMENT:

This Civil Revision Petition is filed under Article 227 of the Constitution of India by the petitioner/defendant in I.A.No.338 of 2010 in O.S.No.159 of 2004 against the respondent/plaintiff seeking to set aside the order, dated 21.09.2011 in said I.A.No.338 of 2010 on the file of the learned Junior Civil Judge, Macherla, Guntur District, by allowing the revision.

2. Heard the learned counsel for the petitioner. The respondent served with notice but failed to attend taken as heard and perused the material on record.

3. The I.A.No.338 of 2010 is filed by the revision petitioner-defendant before the trial Court seeking to send extensive admitted signatures of the defendant stating that in the suit pronote having admitted execution of the pronote with his signature, the defendant is disputing the subsequent payment endorsement with the claim that the suit is barred by time. Undisputedly as per the orders in the earlier petition in I.A.No.357 of 2009 in the same suit filed by the defendant to send the Ex.A.3 part payment endorsement to the Expert, the trial Court allowed to send the same to the Expert to compare along with the admitted signature(Ex.A.2) on Ex.A.1 pronote and it appears the Expert returned the same seeking to submit extensive admitted signatures for the purpose of comparison with the disputed signature. Now the defendant filed the present petition impugned herein. In fact, no such application as the present impugned one which ended in dismissal before the trial Court is necessary for the defendant as once the Court allowed the application in I.A.No.357 of 2009 and sent the document to the Expert with the admitted and disputed signatures and when Expert called for further extensive admitted signatures to arrive a decisive conclusion for comparison with expertise, it is the duty of the

Court to call for both the parties to subscribe or submit any specimen signatures subject to the length of time and any other available admitted signatures with contemporary relevancy and even for that to facilitate any application filed by the defendant which is covered by the impugned one, the dismissal of the same by the trial Court is unwarranted.

4. Having regard to the above, the order of the trial Court dated 21.09.2011 in I.A.No.338 of 2010 in O.S.No.159 of 2004 on the file of the learned Junior Civil Judge, Macherla, Guntur District, is set aside, however the petition closed for no such purpose is necessary and the trial Court is directed, pursuant to the earlier order in I.A.No.357 of 2009 the Expert sought for more extensive admitted signatures for the purpose of comparison, call for both the parties to submit with extensive admitted signatures with contemporary relevancy and the same shall be sent to the Expert. There shall be no order as to costs. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 29.01.2016

Vvr