

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

C.R.P.No.1658 OF 2011

ORDER:

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This revision is filed against the order, dated 14-03-2011, passed in I.A.No.109 of 2011 in O.S.No.112 of 2008, wherein the trial Court dismissed the application filed under Section 45 of Indian Evidence Act (for short "the Act") holding that there is no useful purpose would be served in sending promissory note to the expert.

Learned counsel for the petitioner states that as there is material alteration regarding the date of promissory note, the trial Court ought to have sent the promissory note to the expert opinion under Section 45 of the Act. He also submits that the suit was filed on the last date of limitation, that itself gives rise to suspicion that it is not within limitation. He also submits that no prejudice would be caused to the respondent, if the promissory note is sent to the expert opinion.

On the other hand, learned counsel for the respondent submits that the suit is filed in the year 2008, the present application is filed in the year 2011 only to drag on the proceedings.

In this case, it is to be seen that the suit is filed in the year 2008, if the petitioner/defendant is serious enough regarding his pleas, he should have taken steps for sending the document as early as possible to expert opinion. The expert evidence is not binding on the Court and also the Court can compare the signature and alterations under Section 73 of the Act. More so, the trial Court examined the promissory note and found that there is no

prima facie material on record to consider the prayer of the petitioner and to send the promissory note to the expert opinion.

In view of the above, I do not find merit in the revision petition and is liable to be dismissed.

Accordingly, the revision petition is dismissed. However, the trial Court can itself compare the subject document and examine the contentions raised by the petitioner regarding alteration of dates after evidence is let in at the final disposal of the suit without being influenced by any of the observations made in I.A.No.109 of 2011 or in the present revision.

As a sequel thereto, miscellaneous petitions, if any, pending in this revision, shall stand closed.

A.RAJASHEKER REDDY,J

01-03-2016
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