

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition Nos.5586, 5604 & 5589 of 2011

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COMMON ORDER:

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These three Civil Revision Petitions are directed against the orders dated 16.11.2011 respectively passed in I.A.Nos.1310, 1311 and 1312 of 2011 filed by the defendant in O.S.no.182 of 2009 on the file of the Court of the learned Additional Senior Civil Judge, Tenali.

2. I have heard the submissions of the learned counsel for the revision petitioner/defendant and the learned counsel for the respondent/plaintiff. I have perused the material record. Since the orders impugned in the three revision petitions are passed in the aforementioned three interlocutory applications filed in one suit, all the three revisions are being disposed of by this common order.

3. The facts necessary for consideration, in brief, are as follows:

The plaintiff brought a suit on the foot of a promissory note under exhibit A1 dated 07.01.2008 for recovery of money from the defendant. The defendant is resisting the suit *inter alia* contending that the suit promissory note is a fabricated one. During the pendency of the suit, the petitioner had earlier filed I.A.no.222 of 2011 requesting the trial Court to send the suit promissory note to a handwriting expert for comparison of the disputed signatures on it with the admitted signatures of the defendant that may be taken in open Court. The trial Court had dismissed the said petition. This Court had dismissed the earlier revision in C.R.P.No.2966 of 2011, while holding *inter alia* that the signatures of the defendant that are contained either in vakalat or notice and the signatures of the defendant that may be taken in the open court cannot be termed as admitted signatures of the defendant from the point of view of the plaintiff. However, in the orders passed in the said revision petition, this Court gave liberty to the defendant to file an application and make a request for comparison of the disputed signatures on the

promissory note with the signatures of the defendant on any document/s of a contemporaneous period. Therefore, the defendant had filed the three applications, viz., (i) I.A.No.1310 of 2011 to reopen the suit; (ii) I.A.No.1311 of 2011 to summon the Head Master, Z.P. High School, Katevaram to produce salary acquittance register; and (iii) I.A.No.1312 of 2011 under Section 45 of the Indian Evidence Act to send the suit promissory note dated 07.01.2008 to the Government Handwriting Expert for comparing the signatures on the same with the admitted signatures of the defendant on the said acquittance Register. The said petitions are resisted by the plaintiff *inter alia* contending that the earlier application with a similar request was rejected by the trial Court and that the said order was confirmed by this Court and that therefore, further applications for the same relief are not maintainable and that the suit is pending since a long time and that the petitions which are intended to drag on the matter are liable to be dismissed. By the orders impugned in the three revisions, the trial Court had dismissed all the three applications.

4. The learned counsel for the revision petitioner would submit that in view of the earlier orders of this Court in the aforementioned revision, the defendant is entitled to request the court to reopen the evidence and call for the acquittance register containing the signatures of the defendant of a contemporaneous period for being sent to an expert for comparison of the signatures of the defendant in the acquittance register with those on the promissory note, which are disputed and that the trial court had erroneously dismissed the applications. The learned counsel for the plaintiff while supporting the order of the court below would submit that as rightly held by the trial court, signatures on the reverse of the Pan Card or ATM card would not be, by any standard, of comparable quality and that the defendant is a school teacher and that he is dragging on the suit since a long time and is not allowing the trial court to proceed with the matter.

5. I have bestowed my attention to the facts and the submissions. In view of the earlier orders of this Court in C.R.P.No.2966 of 2011, where under liberty is already given to the defendant to renew the request, this Court is of the well-considered view that the defendant can be given an opportunity to

have the disputed document/promissory note examined by an expert with other documents of a contemporaneous period. The acquittance register that was maintained by the school authorities during the period from 2007-2008 would probably contain the signatures made by the defendant over a considerable period covering also a period contemporaneous to the period of the promissory note, as the said acquittance register of that period might have obviously been signed by the defendant every month while receiving monthly salaries during that period. Therefore, it would be in the interests of justice to allow all the three revisions and as a sequel all the three petitions and give an opportunity to the defendant to have the disputed signatures on the suit document/promissory compared with his signatures on the school acquittance Register by sending the said document/s to an expert for examination and furnishing an opinion with his report for consideration by the trial Court along with other available evidence while arriving at a just decision in regard to the genuineness or otherwise of the promissory note. Viewed thus, this Court finds that there is merit in the revisions and the revision petitions deserve to be allowed.

6. In the result, all these three revision petitions are allowed and the impugned orders in the three revisions are set aside. Accordingly, the evidence shall stand reopened. As a sequel to this common order, the trial Court shall issue summons to the Z.P. High School authorities of the defendant for production of the acquittance register as sought for by the defendant; and on production of the said Register, the court below shall take necessary steps as contemplated under procedure and send the suit promissory note containing the disputed signatures and also the said acquittance Register with the signatures of the defendant to a Government handwriting expert, after giving necessary directions to the defendant to deposit the necessary fee and expenses in that regard, and call for an opinion and report from the said expert. It is needless to mention that the trial court in its discretion may obtain the signatures of the defendant in open court and direct to send the same to the expert along with any other document/s of a contemporaneous period which contain the signature of the defendant, if it

considers that sending the said documents also would be of some aid to the expert for furnishing an assured opinion. The trial Court shall complete the exercise as expeditiously as possible and preferably within one month from the date of the receipt of a copy of this common order. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these revisions shall stand closed.

M. SEETHARAMA MURTI, J

18th February 2016
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