

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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Civil Revision Petition Nos.2792 & 2798 of 2014

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COMMON ORDER:

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These two revision petitions under Article 227 of the Constitution of India by the unsuccessful petitioner/defendant are directed against the common orders dated 19.08.2014 of the learned Principal District Judge, Srikakulam passed in IA nos. 850 and 851 of 2014 in OS no. 1 of 2010.

1.1 IA no. 851 of 2014 is filed by the petitioner/defendant under Order VIII Rule 1(3) read with Section 151 of the Code of Civil Procedure, 1908 ('the Code', for brevity) to grant leave and permit the petitioner/defendant to file the document viz., report/opinion of Sri Narindra Singh, Director, Documents Division, Truth Labs of Hyderabad, by condoning the delay in filing the said document.

1.2 IA no. 850 of 2014 is filed under Order XVI Rule 1 read with Section 151 of the Code requesting to issue summons to the said expert Sri Narindra Singh, to appear before the Court and give evidence on behalf of the petitioner/defendant in regard to his opinion furnished to the defendant *vide* File no.TLH/QD/070/2014 dated 15.04.2014.

2. I have heard the submissions of the learned counsel for the revision petitioner/defendant ('the defendant', for brevity) and the learned counsel for the respondent/plaintiff ('the plaintiff', for brevity). I have perused the material record.

3. The case of the defendant, in brief, is as follows: "The plaintiff filed the suit for recovery of money in a sum of Rs.23,26,000/- with subsequent interest and costs. The said suit is filed on the foot of a promissory note for Rs.15,00,000/-. The defendant is resisting the said suit *inter alia* contending that the suit is a false suit and is filed by forging the signature at the instance and instigation of Kota Venkata Vasudeva Rao and his brother Kota Sri

Jaggu Naidu and in gross collusion, connivance and conspiracy with them. Indeed, this defendant had also filed against Kota Venkata Vasudeva Rao the suit OS.no.186 of 2009 on the file of the court of the learned XIII Additional District Judge for recovery of Rs.12,00,000/- with subsequent interest and costs and also OS.no.283 of 2009 on the file of the Court of the learned Senior Civil Judge, Gajuwaka for recovery of Rs.6,00,000/- with subsequent interest and costs. The said suits are pending. The defendant had also filed CC no.730 of 2009 on the file of the Court of the learned III Additional Chief Metropolitan Magistrate, Gajuwaka based on dishonoured cheque for Rs.2,00,000/- issued by the said Kota Venkata Vasudeva Rao. The said CC was disposed of in favour of this defendant on 09.05.2014. Out of vengeance the said Kota Venkata Vasudeva Rao got filed against this defendant, the present suit through the present plaintiff. To disprove the case of the plaintiff and to prove his defence, it has become necessary to file these two petitions viz., one to receive on file the expert's report/opinion furnished by the expert Narindra Singh, Director, Documents Division, Truth Labs of Hyderabad by granting necessary leave and by condoning the delay in filing the same; and the other to summon the said expert to give evidence in regard to his said opinion in regard to exhibit A1-promissory note. If the requests in these petitions are not granted, the defendant would suffer serious and irreparable loss."

4. Both the said petitions were resisted by the plaintiff by filing a counter *inter alia* contending as follows:

The material allegations in the affidavits filed in support of the two petitions are false. The petitions are filed to drag on the matter. The affidavits are silent as to how the certified copies of the documents, which are referred to in the report/opinion of the expert are obtained. The admitted signatures of the defendant ought to have been obtained in the open court, in case the defendant wanted such signatures to be compared with the disputed signature on the promissory note. There is every possibility to manage the expert as the defendant himself has chosen to send the documents to the said expert. Such an opinion/report cannot be received on file by the Court.

The opinion/report was received by the defendant in the month of April, 2014, but, the defendant did not choose to file the same immediately before the (trial) Court. He had filed these petitions belatedly in June, 2014 to drag on the matter. The signatures of the defendant naturally vary from time to time; and the standard of the signature made by a person depends on the paper and the pen used; and hence, the opinion/report of the expert cannot be received. Hence, the document viz., the opinion/report of the expert cannot be received on file. The Photostat copies of documents are by themselves not admissible in evidence. Photostat copies are amenable for manipulations, is a well-known and accepted fact. Hence, the opinion/report based on Photostat copies is inadmissible. Further, there is direct evidence of PWs1 to 3 in regard to the truth and validity of the suit promissory note. The petitions are not *bona fide* and are liable to be dismissed.

5. The Court below had dismissed the petitions on the grounds - that the expert's report/opinion is dated 17.04.2014, but, the defendant had not chosen to file the same immediately into Court; and that having waited for dismissal of his five more applications viz., IA.nos.431 to 435 in succession, the defendant had filed these two instant applications; and that the evidence on the plaintiff's side is closed; and that on the defendant's side, DWs1 to 4 were already examined; and that his affidavits filed in support of the petitions do not disclose any reasons for the delay; and that the original promissory note and the original documents containing the standard signatures of the defendant have not been sent to the Expert of the Truth Labs for comparison of the signatures on the said documents; and that the petitions are intended to drag on the proceedings; and that the expert had only been supplied with the Photostat copies of the suit promissory note and other documents, but, not the originals for comparing the signatures on the said documents.

5.1 The learned counsel for the defendant while reiterating the case of the defendant, which is stated at paragraph 3 supra, had submitted that all the reasons which are assigned by the Court below, are unsustainable in the facts and circumstances of the case. He would further submit that the defendant is seriously disputing the suit claim and is *inter alia* contending that

the suit promissory note is forged at the instance and instigation of two persons, whose names are mentioned in his defence and that the suit is a result of vengeance and that, therefore, by allowing both the petitions an opportunity ought to have been given to the defendant to substantiate his defence instead of dismissing the petitions. It is further urged that an opinion/report obtained privately cannot be rejected from reception merely because the same was obtained without obtaining necessary orders from the Court below and that a report/opinion cannot be rejected at the threshold even without granting permission to file it and even without an opportunity to prove the same by examining the expert.

5.2 While supporting the orders of the Court below, the learned counsel for the plaintiff would contend as follows: "The petition to receive the documents namely the expert report/opinion is highly belated and it is filed after the closure of the evidence on the side of the plaintiff and also after the examination of DWs 1 to 4. No explanation much less valid explanation is offered for the delay. No valid grounds are made out for granting leave to the defendant for filing the document. The document is an expert's report/opinion, which was obtained privately by the defendant directly from a private laboratory; and, that if the defendant wanted to obtain an expert's opinion in support of his defence, he ought to have requested the Court to send the relevant original documents to an expert of the Government and ought to have taken steps for obtaining an expert's opinion from a Government expert of a Government Forensic Laboratory and not behind the back of the plaintiff. Admittedly, the originals are in the court record and the originals are not supplied to the private expert from whom the defendant had obtained the opinion privately; any opinion of a hand writing expert based on signatures/writings on the documents, which are Photostat copies, is unreliable and inadmissible. If the Courts permit parties to obtain private reports from private experts directly without the orders of the Court, it would lead to serious and complex situations; any report, which is obtained by a party privately and behind the back of the plaintiff and without the intervention of the Court and without orders from the Court cannot be permitted to be

received on record as receiving such report/opinion causes great prejudice to the plaintiff. What are the admitted and standard signatures fit for comparison has to be decided by the Court after hearing both the side and on such an important aspect the defendant cannot take a decision unilaterally to suit his convenience and his defence. The law does not provide for the parties directly/privately obtaining opinions from either Government or private experts or for receiving on file of such privately/directly obtained reports. The orders impugned in the revisions are valid and need no interference.”

6. Now the points for determination are – **“whether the defendant had made out valid and sufficient grounds for granting leave and for receiving the expert’s report/opinion obtained by him on file after condoning the delay in filing the same; and for summoning the expert, who had furnished the said opinion to him, to be examined as a witness on his side to prove the said document?”**

7. I have bestowed my attention to the facts and the submissions. I have given detailed, thoughtful and earnest consideration.

8. In the light of the contentions of the parties, it is to be first noted that in a suit on the foot of a promissory note filed by the plaintiff, the defendant, having raised a contest that the suit promissory note is a rank forgery, had obviously obtained privately a report/opinion from a private expert of a private laboratory having ISO Certification and had filed these two petitions – (one) to receive the said report/opinion of the private expert on file after granting leave and by condoning the delay; and (the other) to summon the said expert to prove the contents of his report/opinion. Both the petitions were dismissed by the Court below. In this backdrop, and the sets of contentions advanced by the learned counsel for the parties, it is necessary to refer to the relevant provision of law.

Section 75 of the Code reads as follows:

‘Power of Court to issue commission – Subject to such conditions and limitations as may be prescribed, the Court may issue a commission –

- a) to examine any person;***
- b) to make a local investigation;***

- c) to examine or adjust accounts; or
- d) to make a partition;
- e) to hold a scientific, technical, or expert investigation;
- f) to conduct sale of property which is subject to speedy and natural decay and which is in the custody of the Court pending the determination of the suit;
- g) to perform any ministerial act.

8.1 The Power of the Court to issue Commissions as envisaged in the above provision of law deals with the power of the Court to issue a Commission to hold a scientific, technical or expert investigation. The provision itself says that the said power is subject to such conditions and limitations as may be prescribed. Therefore, even the power conferred on the Court is not an unlimited power; and the power is circumscribed by certain conditions and limitations. Order XXVI of the Code which deals with Commissions also deals with Commissions for scientific investigation, performance of ministerial act and sale of movable property.

Rule 10A of Order XXVI reads as under:

“10A. Commission for scientific investigation – (1) Where any question arising in a suit involves any scientific investigation which cannot, in the opinion of the Court, be conveniently conducted before the Court, the Court may, if it thinks it necessary or expedient in the interests of justice so to do, issue a commission to such person as it thinks fit, directing him to inquire into such question and report thereon to the Court.

(2) The provisions of rule 10 of this Order shall, as far as may be, apply in relation to a Commissioner appointed under this rule as they apply in relation to a Commissioner appointed under rule 9.”

Rule 10 deals with the procedure of Commissioner. The said Rule reads as follows:

“10. Procedure of Commissioner— (1) The Commissioner, after such local inspection as he deems necessary and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing signed by him, to the Court.

(2) Report and deposition to be evidence in suit. Commissioner may be examined in person—The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence

in the suit and shall form part of the record; but the Court or, with the permission of the Court, any of the parties to suit may examine the Commissioner personally in open Court touching any part of the matters referred to him or mentioned in his report, or as to his report, or as to the manner in which he has made the investigation.

(3) Where the Court is for any reason dissatisfied with the proceedings of the Commissioner, it may direct such further inquiry to be made as it shall think fit.”

8.2 A plain reading of the provisions would show that if only the Court is of the opinion that any question arising in a suit involves any scientific investigation, which cannot be conveniently conducted before the Court, and, if only the Court thinks it necessary or expedient in the interests of justice so to do, the Court may issue a Commission for scientific investigation directing such person to whom the Commission is ordered to do the necessary scientific investigation and report thereon to the Court. Therefore, in the considered view of this Court, the Court alone is empowered to give an order and directions for scientific investigation. A party is, therefore, not entitled to directly ask any expert to enquire into any question involved in the suit in regard to any scientific investigation and report thereon to the Court. It is for the Court to exercise the said power, subject to such conditions and limitations, in a case where the facts of the case warrant; and the Court generally exercises the said power if the Court is of the opinion and thinks it necessary or expedient in the interests of justice to issue a Commission for scientific investigation. Therefore, there is no provision in the Code which empowers a party to the suit to directly obtain an opinion from an expert and file the report with the opinion before the Court.

8.3 As noted supra, issuance of Commissions is dealt with in Section 75 in Part III of the Code, which deals with ‘Incidental Proceedings’; whereas the other ‘interlocutory proceedings’ like grant of temporary injunctions and appointment of receivers etcetera are dealt with in Section 94 of the Code which deals with ‘Supplemental Proceedings’. Supplemental proceedings are separate proceedings in an Original action, in which the Court is called upon to exercise jurisdiction in aid of the judgment in action. Incidental

Orders are those, which follow as a matter of course being necessary complements in the main order without which the matter would be incomplete or ineffective. [Vide **M A Mohamed Ali v. R Ramadoss** (AIR 1966 Madras 441)]. Thus, incidental orders are complementary in nature and are intended to assist the Court in arriving at a just decision in the *lis* unlike supplemental orders.

It is apt to refer to Section 45 of the Indian evidence Act also, which reads as under:

45. Opinions of experts.—When the Court has to form an opinion upon a point of foreign law, or of science or art, or as to identity of handwriting or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, science or art, or in questions as to identity of handwriting or finger impressions are relevant facts. Such persons are called experts.

8.4 As fairly stated by the learned counsel for both the sides, it is no doubt true that no Government expert attached to a Government Forensic Science Laboratory would furnish an opinion directly and privately to parties. A Government expert would furnish an opinion or a report only under the orders and directions of a Court. Obviously for that reason, the defendant had approached a private expert of a private laboratory and had obtained a report by making available to the said expert some documents, which are in his possession and which in his discretion are suited for comparison; and had thus, obtained a report/opinion directly. Therefore, the said report was obtained by the defendant from a private expert by directly furnishing/giving documents, which he considered in his opinion, are best suited for comparison and furnishing a report. There was no opportunity to the plaintiff to have his say in the matter particularly on the comparable standards of the signatures on the documents, which are unilaterally furnished by the defendant to the private expert for his opinion. Generally, it is for one of the parties to make a request to the Court to order issuance of a commission for scientific investigation by sending the documents said to be containing the disputed signatures and the documents said to be containing

admitted/standard signatures for comparison by an expert and for furnishing his opinion in regard to the genuineness or otherwise of the disputed signatures. The courts in our States (Andhra Pradesh and Telangana) are generally seeking expert's opinions from the Government experts of the Government Forensic Science Laboratories of the States. No doubt the Courts are empowered to seek opinion also from a private expert attached to a private laboratory for reasons to be recorded. In the case on hand, as is fairly stated before this Court, all the documents are furnished directly by the defendant to the private expert from whom a report/an opinion was obtained by the defendant. All those documents are only Photostat copies and none of the documents is an original document. Even the original promissory note is not furnished to the expert. Admittedly, the originals are in the Court record and the originals are not supplied to the private expert from whom the defendant had obtained a report /opinion privately; any opinion/report of a hand writing expert in regard to genuineness or otherwise of signatures/writings on the Photostat copies is generally not of assured and reliable nature. When the originals are very much available in the Court records and there is every opportunity to the defendant to obtain the opinion/report from a qualified expert under the orders and supervision of the Court, there is no reason for the defendant to obtain an opinion/report from an expert that too based on Photostat copies. The submission of the plaintiff that if the Courts permit parties to obtain private reports from private experts directly without the orders of the Court, it would lead to serious and complex situations needs consideration and cannot be brushed aside without due consideration; any report, which is obtained by a party privately and directly and behind the back of one of the parties and without the intervention of the Court and without the orders from a Court having seisin over the matter cannot be permitted to be received on record. It is apt to note that even a Government servant like a Police officer cannot conduct further investigation in a matter within the purview of the Court without obtaining necessary permission from the Court. Such legal principles are enunciated to preserve the primacy of the justice administration and delivery system. The provisions of the Code do not provide for the parties directly and privately obtaining

opinions from either the Government or private experts and also do not provide for receiving on record such privately or directly obtained reports/opinion. No-doubt it is true that a party, who is interested in knowing the strength of his case may approach a private expert of a private Forensic Laboratory and obtain an opinion in regard to the disputed document said to be containing his handwriting or signature. However, if he intends to obtain an opinion or report and wants to place reliance on such report in support of his case/defence in the suit, necessarily, he has to follow the procedure established by law and obtain such opinion under the orders and supervision of the Court by filing an appropriate application in accordance with the procedure established by law. When the law is settled that expert's evidence as to handwriting or signatures is opinion evidence and it can rarely, if ever, take the place of substantive evidence, there is no point in permitting a party to rely upon an opinion like the present one, which was obtained directly and unilaterally from an expert without the orders of the Court and by making available only the copies of the documents and not the original documents. The course adopted by the defendant in obtaining the instant opinion without orders of the Court is impermissible and cannot be approved by the Court; and the opinion furnished on the basis of the documents unilaterally furnished by the defendant, that too not original documents, would make the opinion evidence further weak and undependable. Expert's opinions that are obtained under the orders and supervision of the Court will be relied upon by one of the parties by treating them as important pieces of evidence and, therefore, such expert's opinions and reports shall be of reliable and assured nature; and hence, unless expert's opinion/report is obtained on an application made to a Court in accordance with the procedure established by law and under the orders and supervision of the Court, an opinion/report of the expert cannot be a part of the record of the Court. Neither the opinion/report privately obtained can be received nor the expert, who has furnished the said report, be permitted to be examined as a witness as any such evidence is inadmissible and will be of no probative value. In the well considered view of this Court, such report obtained unilaterally by the defendant without following the procedure established by law and without the

necessary orders from the Court, cannot be forced either upon the Court or the plaintiff. Further, no explanation is forthcoming from the defendant as to why the codified procedure was not followed by the defendant and as to why an opinion was directly obtained from a private expert of a private laboratory that too without the orders and supervision of the Court, which is having seisin over the matter. In deed, if the defendant wanted to obtain an expert's opinion he ought to have filed an appropriate application and ought to have requested the Court to send the relevant original and other documents to an expert and ought to have taken steps accordingly for obtaining an expert's opinion as per the codified procedure and norms; and not behind the back of the plaintiff. It is settled law that the opinion of an expert in regard to genuineness or otherwise of signatures and/or hand writings is purely opinion evidence and such opinion evidence in regard to signatures/handwriting is not based on exact science as in the case of thumb impressions. In a case of this uncanny nature, where the reliefs sought for, if granted pave way to a course or accord sanction to a conduct, which is impermissible; and further, the reliefs, if granted, encourage imprudence and insolence of procedure established by law; and such reliefs, if granted, come in conflict with the primacy of justice administration and delivery system, the Courts would be reluctant to grant any such reliefs. One aspect, which may be visualized and be noted is as under: "If the parties to a *lis* are allowed to obtain reports/opinions from experts privately and directly and submit the same to the Court, then several outcomes may be possible. In a given case, if the reports/opinions obtained by both the parties from different experts are akin, then the party who had privately obtained the opinion/report, which is against his case, would tend to suppress that opinion/report obtained by him and would prefer to raise all possible and available contentions against the adverse opinion/report obtained privately by the opposite party. Further, in another given case, if the opinion/report obtained by one party from a private expert is in direct conflict with the other report/opinion obtained by the opposite party from another private expert, then such situation would lead to complexities and results in burdening the record with unnecessary and avoidable evidence." Therefore, the best and only worthwhile course, which

would avoid unnecessary complexities and controversies, is to allow the parties, who are desirous of obtaining an expert's report/opinion, to make an application to the Court as per the procedure established by law with a request to the Court to send the relevant records to a qualified expert with necessary directions to such expert to furnish a report/opinion as is required in the matter. Such a report/opinion thus obtained under the orders and supervision of the Court would then be one more assured piece of evidence before the Court; and the Court will have the advantage of considering such opinion evidence along with the other evidence that would be available on record by the time the suit comes up for final adjudication on merits. Such a course alone perfectly sub serves the ends of justice, in the well considered view of this Court. In any view of the matter, when the procedure established by law presents a fair opportunity to a party to the *lis* to obtain an opinion of a qualified expert under the orders and supervision of the Court and such opinion/report will have the sanction of the law, subject to consideration of its probative value at an appropriate stage, any opinion or report of an expert obtained privately and directly by any party, as the one that was obtained by the defendant in the present suit shall not be accepted by the Court. Even in a case where the Court refuses to consider the request of a party to send the disputed and other relevant documents to an expert for securing opinion, the defendant is obliged to assail the orders of the Court before a superior Court, but, cannot resort to obtaining an opinion/report privately on his own. Further, even otherwise, in the case on hand there are no exceptional circumstances to accept the requests of the defendant, by carving out an exception. Hence, this Court finds that the orders impugned in these revisions are valid and sustainable both under facts and in law and do not warrant interference in these revisions, which are misconceived.

9. Before parting with the case, it is necessary to mention that the following decisions are cited at the hearing.

1. **Vidhyadhar v. Mankikrao**^[1] is relied upon by the learned counsel for the defendant in support of his contention that a witness, the private expert,

who has furnished his opinion is prepared to give evidence even without summoning him and that, therefore, if his report is received on file by granting the necessary leave, the same would be sufficient; and that even though the witness is an expert, his examination without taking summons to him through Court and without his name being mentioned in the list of witnesses are no grounds to reject his testimony in case he voluntarily appears at the request of the defendant as a witness on the side of the defendant. The proposition of law is not disputed by the plaintiff.

2. **Velaga Sivarama Krishna v. Velaga Veerabhadra Rao**^[2] is relied upon in support of the contention that when the defendant denied execution of promissory note and signature thereon, it is essential to send the document to an expert for comparison of signatures. There is no quarrel with the proposition in this cited decision. The defendant is always at liberty to file an application before the Court below requesting the Court to call for an opinion/report regarding genuineness or otherwise of the suit promissory note under its orders and supervision. The defendant did not avail the said opportunity for the reasons best known to him.

3. In **Rytu Depot, Draksharama, East Godavari District v. Sri Rajyalakshmi Agencies, Ramachandrapuram**^[3] this Court considered the acceptability of sending a carbon copy of a document for comparison of the writing/signature thereon with the admitted signature by an expert. In the cited case, the very document on which the signature is disputed is itself a carbon copy. Therefore, the ratio in the decided case has no application to the facts of the present case.

4. **Doraiswamy Gounder v. Paravammal**^[4] is relied upon in support of the contention that photographic copies of documents can be sent to an expert. There is also no dispute with the proposition in this decision. But, in the case on hand, the question is as to whether Photostat copies of documents of the choice of the defendant can be sent to the expert unilaterally without the orders of the Court and whether the defendant can obtain opinion privately

and unilaterally without obtaining necessary orders from the Court.

5. Order dated 20.06.2014 of this Court in CRP.Nos.1531 to 1535 and 1549 of 2014 (unreported) is called in aid to enlighten on the scope of jurisdiction of the Court under Article 227 of the Constitution of India, which is not disputed by the plaintiff.

6. In the Order dated 27.06.2013 of this Court in CRP.nos.2366 & 2434 of 2012 (unreported) this Court expressed its complete agreement with the order of the Court below insofar as its finding that the signatures on documents such as counter, vakalat and written statement cannot be considered as contemporary signatures as there was a possibility of putting signatures in disguise in view of the possible defence to be taken.

7. **Dhuri Sah v. Kishun Prasad Sah**^[5] is relied upon in support of the following proposition: ***“No doubt, D. W. 8 was a private expert examined on behalf of the defendants, and that he had not been appointed as such by the Court, but that fact by itself cannot be a ground for holding that in the absence of any order in regard to his appointment as an expert, it was not open to the defendants to examine him on their own behalf. It is a different matter that the evidence of such an expert has to be appreciated in the light of the circumstances surrounding it. In this case the finding given by the Court below on the question of non-payment of Rs. 2,200/- by the plaintiff to Anandi Sah is based not exclusively on the evidence of D. W. 8 but on an elaborate consideration of the entire materials on the record. That being so, even the question of weight in regard to the evidence of D. W. 8 cannot, now in the circumstances, arise for consideration. Thus, the finding given by the Court below on the question of payment of Rs. 2,200/- by the plaintiff to Anandi Sah now stands concluded.”*** The facts of the cited case show that the property in dispute in that case is a house property and the defence put up by the defendants who had contested the suit is that the story set up by the plaintiff about payment of Rs.2,200/- to Anandi Sah was false and that the receipt/exhibit A4 therein was forged and fabricated document. The

defendants examined DW8 the private expert; considering the entire evidence brought on record, a finding was recorded by the Court below on the question of non payment of Rs.2,200/- by the plaintiff to the said Anandi Sah and the said finding is based not exclusively on the evidence of DW8 but on elaborate consideration of the entire material on record. In the instant case on hand, the disputed document is not a document signed by a third party to the suit. It is the very suit document namely the suit promissory note. Further, no explanation is forthcoming from the defendant as to why he could not make a request to the Court below by filing an application in accordance with the procedure established by law to send the document disputed as well as the documents containing admitted and standard signatures to an expert for comparison and furnishing a report. If only the possibility to obtain an opinion under the orders and supervision of the Court is ruled out, then, may be in a given rarest of rare case, a private opinion obtained from a private expert may be permitted to be filed but not in a case of this nature.

9.1 Having regard to the facts peculiar to this case, this Court has already recorded reasoned findings while confirming the findings of the Court below; and the said reasons are sufficient to say that the decisions relied upon by the learned counsel for the petitioner/defendant do not advance his case any further.

10. Viewed thus, this court finds that in the facts and circumstances of the case, the Court below was justified in refusing to receive on file the expert's report/opinion and to summon the expert for giving evidence and, therefore, the common order impugned does not call for any interference.

11. In the result, both the Civil Revision Petitions are dismissed.

It is needless to mention that the defendant is at liberty to file, if he so chooses and so advised, an appropriate and necessary application before the Court below to send the suit promissory note and other relevant original and other documents to an expert for furnishing an opinion as to the genuineness or otherwise of the suit promissory note. However, it is also made clear that if any such application comes to be filed, the Court below

shall give an opportunity to the plaintiff to file a counter and then shall dispose of the said application in strict accordance with the procedure established by law. Considering the fact that the suit is of the year 2010, the trial Court shall dispose of the suit as expeditiously as possible and in accordance with the procedure established by law within a period of three (03) months from the date of the receipt of a copy of this common order.

There shall be no order as to costs.

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

JUSTICE M. SEETHARAMA MURTI

30th March 2016

Note:LR copy to be marked.

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[\[1\]](#) AIR 1999 SC 1441(1)

[\[2\]](#) AIR 2009 AP 47

[\[3\]](#) 2013(5) ALD 394

[\[4\]](#) AIR 1976 Madras 66

[\[5\]](#) AIR 1965 PATNA 29 (V 52 G 9)