

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.4971 OF 2016

ORDER:

The defendants to O.S. No.646 of 2011 impugning the order of the lower Court in I.A. No.69 of 2016 in O.S. No.646 of 2011, maintained the revision against the plaintiff entity.

2) Heard both sides and perused the material on record.

3) It was an application to permit the plaintiff to lead secondary evidence of the letter dated 12.11.2009 with enclosures in the course of examination of PW.1. In fact, the law is fairly settled from the expression of the Apex Court in ***Bipin Shantilal Panchal vs State of Gujarat***¹ that was reiterated by the subsequent expression of the Apex Court in ***State (N.C.T. of Delhi) vs Navjot Sandhu @ Afsan Guru***² that but for in relation to stamp duty and registration all objections relating to the documents including as to the adduction of secondary evidence is to be marked subject to objection in relation to proof, relevancy and admissibility to decide ultimately instead of the archaic practice of deciding instantaneously and allowing the matters to be impugned by maintaining revisions and stalling the trial progress. No doubt, in the subsequent expression of the Apex Court in ***Shalimar Chemical Works Limited vs Surendra Oil and Dal Mills (Refineries) and others***³ it was observed that the objection relation to the admissibility of document to be decided at the initial stage, which was in relation to xerox copy of the trade mark registration certificate, which is the suit document for no foundation of existence of original. Referring to all the

¹ AIR 2001 SC 1158

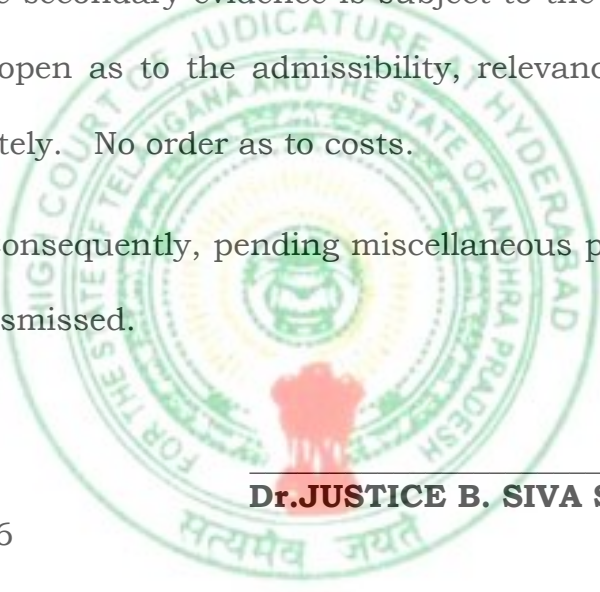
² 2003 (6) SCC 641

³ 2010 (8) SCC 423

expressions, this Court in detail answered the same in explaining the Shalimar (supra) is confined to the facts and the general principle laid down in Bipin Shantilal (supra) reiterated in Afsan Guru (supra) is applicable to all cases vide C.R.P. Nos.4384 and 4385 of 2015 dated 29.09.2016 in Sri Kathi Narsinga Rao vs Kodi Supriya and another.

4) Having regard to the above, the revision is disposed of, while upholding the order of the lower Court permitting secondary evidence, however, by modifying the same to the extent that permitting the secondary evidence is subject to the objection while marking left open as to the admissibility, relevancy and proof to decide ultimately. No order as to costs.

5) Consequently, pending miscellaneous petitions, if any, shall stand dismissed.



Dr.JUSTICE B. SIVA SANKARA RAO

Dt.15.12.2016
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