

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.5407 OF 2015

ORDER:

The civil revision petition is filed aggrieved by the order dated 23.09.2015, passed by the Senior Civil Judge, Nalgonda, in I.A.No.376 of 2015 in O.S.No.342 of 2014.

It is the case of the petitioner that the respondent/plaintiff filed a suit in O.S.No.342 of 2014 on the file of Senior Civil Judge, Nalgonda based on a promissory note for recovery of an amount of Rs.9,99,600/- from the petitioners/defendants, wherein the 2nd petitioner/2nd defendant made his signature as a surety to the transaction. It is further stated that the petitioners have totally denied about the execution of the promissory note apart from the 2nd petitioner standing as a surety to the said transaction. As there was a dispute with regard to the very execution of the alleged pronote, the 2nd petitioner sought permission of the Court below to refer the document to the expert's opinion under Section 45 of the Indian Evidence Act, 1872 by filing the impugned application. The Court below after hearing the both sides dismissed the impugned application placing reliance on the judgment reported in **M. Narsi Reddy Vs. V. Raghu Ram Naidu and another**^[1], wherein this Court had taken a view that in the absence of admitted contemporaneous signature, the petition cannot be allowed.

Notice before admission was ordered by this Court and the respondents were served with the notices.

Sri H. Srinivasa Rao, learned counsel for the petitioners by placing reliance on the common order passed by the Full Bench of this Court in **Rande Siva Shankara Srinivasa Prasad vs. Ravi Surya Prakash Babu & others** in C.R.P.Nos.1500, 1572, 4098 and 5008 of 2010, to support his contention that in all the cases, the availability of contemporaneous signature is not necessary. Apart from that, the learned counsel for the petitioners submits that there is a document dated 06.11.2013 wherein the 2nd petitioner had purchased a property and a registered document came to be executed in her favour. The pronote is dated 09.01.2014 and the sale deed is dated 06.11.2013 which is not in close proximity to the disputed document. In that view of the matter, learned counsel submits that the refusal

on the part of the Court below to refer the disputed document for expert's opinion is unsustainable and prays for allowing the civil revision petition.

Having considered the submissions of the learned counsel for the petitioners and especially in view of the judgment of the Full Bench of this Court referred to above, the civil revision petition deserves to be allowed. Inasmuch as the Full Bench of this Court had opined that the document executed even two to three years prior to the date would also be satisfied and would be useful for the purpose of giving opinion. In the light of the authoritative pronouncements of the Full Bench of this Court, the civil revision petition deserves to be allowed

Accordingly, the Civil Revision Petition is allowed setting aside the order dated 23.09.2015, passed by the Senior Civil Judge, Nalgonda, in I.A.No.376 of 2015 in O.S.No.342 of 2014 and directing the Court below to send the document in question to the expert's opinion. No order as to costs.

Miscellaneous Petitions pending, if any, in this civil revision petition shall stand closed.

CHALLA KODANDA RAM,J

Date:12.02.2016.
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THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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Date:12.02.2016

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