

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.4633 OF 2016

ORDER:

Heard Mr.Virupaksha Dattatreya Gouda for petitioner and Mr.Vedula Sinivas for respondent.

The defendant in O.S. No.8 of 2012 in the Court of Principal District Judge, Kurnool is the revision petitioner. The revision is directed against order in I.A. No.1360 of 2016 filed by revision petitioner for sending endorsement dated 30.01.2009 for the opinion of the expert. The principal objection of revision petitioner is that the Court below did not examine the prayer under Section 45 of the Indian Evidence Act and under Order 26 Rule 10 of Civil Procedure Code. The further objection is that the trial Court ought not to have gone into the evidence already adduced and further recording finding in this behalf is completely erroneous.

Mr.Vedula Sinivas for respondent admits that the observations of the trial Court in Paragraph 8 of the order impugned would have been avoided while considering the instant prayer. Once reasoning in Paragraph 8 is excluded, the reasoning given in Paragraph 9 alone falls for consideration which reads thus:

“Taking into consideration the contentions made by the respondent/plaintiff, this Court feels that there is no necessity to send the documents to the Hand Writing Expert under Section 45 of Indian Evidence Act, as the petitioner himself failed to produce the admitted signatures along with the present petition.”

This Court is of the view that there is no further reasoning in Paragraph 9 at least while disposing of interlocutory application to appreciate the reasons given by the Court below. The order impugned under revision is set aside and the matter is remitted to the Principal District Judge, Kurnool for disposal within six weeks from today.

The C.R.P. is ordered accordingly. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S. V. BHATT, J

Date:18.11.2016
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