

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CRP No.1627 of 2017

ORDER:

Revision petitioner herein is the defendant in the suit. Suit being OS No.82 of 2005 is filed by the plaintiff respondent herein for declaration of title and mandatory injunction. Revision petitioner claims to have purchased the suit property from the plaintiff as long back as in 1994 through an un-registered sale deed for an amount of Rs.25,500/-. It appears, thereafter, the plaintiff executed gift settlement deed in respect of the suit property, which according to the revision petitioner is a sham document and not valid in the eye of law.

2. Before the parties could enter into the witness box, the revision petitioner filed the instant application IA No.269 of 2014 under Section 73 of the Evidence Act, to compare the signatures of the plaintiff both on the un-registered sale deed dated 10-04-1994 and the gift settlement deed, which was dismissed by the trial Court. Hence, this civil revision petition.

3. Heard the learned counsel for the petitioner. Perused the impugned order.

4. It is to be seen that the Court can compare the admitted signature with the disputed one and come to its own independent conclusion, which is permissible under [Section 73](#) of the Evidence Act. However, Courts should not normally take upon itself such responsibility and should leave the matter to the wisdom of experts in the event of slightest doubt. But that stage has not reached in the case. The plaintiff whose signature is sought to be compared is not examined. It is not the case that the plaintiff has denied the signature on the un-registered sale deed said to have been executed in favour of the revision petitioner.

5. In the circumstances, this Court is not inclined to interfere with order of the trial Court dismissing the application. However, at appropriate stage of the case, if so advised, it is open for the petitioner to make an application under Section 45 of the Indian Evidence Act, to call for expert opinion, and on such an application being made by the petitioner, the trial Court to consider the same and pass appropriate orders thereon, in accordance with law.

6. In the result, the civil revision petition is dismissed. Miscellaneous petitions, if any pending shall also stand closed. No order as to costs.

A.RAJASHEKER REDDY, J

Dated: 30-06-2017
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