

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.6395 of 2016

ORDER:

This Civil Revision Petition under Article 227 of the Constitution of India is filed to revise the Order dt. 18.11.2016 in I.A.No.341 of 2016 in O.S.No.5 of 2010 on the file of VI Additional District Judge at Siddipet, whereby the trial Court declined to send the document to the expert for examination of the signatures of Sri T. Srikanth, one of the executant of the sale deed marked as Ex.B.27.

The petitioners/plaintiffs filed O.S.No.5 of 2010 for cancellation of Ex.B.27—Sale Deed executed by the petitioners, represented by its firm and the petitioner Nos. 1 and 2 are the partner Nos. 4 and 5 and they joined as executants of Ex.B.27. They initially raised several pleas that the document was obtained by undue influence, force, coercion and illegal methods and the same as null and void and it is not binding on the them and also claimed recovery of possession to the extent of half share in the plaint schedule property. But, subsequently, the plaintiffs/petitioners got amended the plaint by incorporating para No.7(a) contending that the petitioners came to know that T. Srikanth-D.2 impersonated by his brother namely Tadmamadla Sridhar, the second son of D.1, who scribed and put his thumb impression in the alleged sale deed, which is illegal in the eye of law. After amending the plaint, the defendant No.3 filed additional Written Statement denying the material allegations made in para No.7(a) of the plaint and specifically contended that the vendor No.2 of document No.4517/2006, dt. 23.05.2006, who is the defendant No.2 herein, personally came to Sub Registrar's Office and executed the registered sale deed and therefore, on

that ground, the document cannot be referred to the expert for comparison and opinion.

The trial Court dismissed the petition on various grounds and one of the ground is that the petitioners did not raise such ground initially, later raised without any basis. Thus, the initial contention of the petitioners was that the document was obtained by undue influence, force, coercion and illegal methods, but later added additional ground that defendant No.2 impersonated by defendant No.3 and he never signed on the document. Therefore, sought reference of the document to the expert for examination and opinion.

During the course of hearing, learned counsel for petitioners would draw the attention of this Court to the cross examination of DW.4, who admitted that he has no objection to send the document for comparison of his signature and thumb marks i.e., T. Srikanth. He categorically asserted in his evidence that he is the signatory as second executant on the document and expressed that he has no objection to send the document for comparison. When the executant—Srikanth himself admitted that Ex.B.27—Sale deed bears his signature as second executant, there is no need to send the document to the expert for comparison and opinion as judicial admission is best piece of evidence and needs no proof in view of Section 58 of the Evidence Act and even otherwise the evidence of expert under Section 45 of Evidence Act is not substantial piece of evidence and at best it is corroborative piece of evidence. However second executant on the document, when admitted, that he is the person who signed on it, there is no need to send the document to expert for comparison and opinion. Therefore, the Order of the trial Court does not suffer from any illegality

warranting interference of this Court while exercising power under Article 227 of the Constitution of India and consequently, this Civil Revision Petition is deserves to be dismissed.

Accordingly, this Civil Revision Petition is dismissed.

Miscellaneous petitions, if any, pending in this petition, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date:13.03.2017
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