

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.4138 of 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, came to be filed assailing the order dated 16.06.2017 passed in I.A.No.164 of 2017 in O.S.No.389 of 2011 by the II Additional Junior Civil Judge, Chittoor, whereby and whereunder the application filed by the petitioners under Section 16 Rule 7 of the Code of Civil Procedure seeking to summon and examine the hand writing expert, was dismissed.

Heard the learned counsel for the petitioners. Since this Court is not passing any orders against the respondent, there is no necessity to issue notice to them and the revision is disposed of at the stage of admission itself.

As seen from the material on record, the document which is the subject matter of dispute is already marked and thereafter it was sent to Handwriting expert under Section 45 of the Evidence Act. The expert gave his opinion stating that signatures on S.1 to S.25 and Q.1 to Q.6 are of the same person i.e. P.W.2, who is the vendor of plaintiff. But, however, PWs 1 and 2 denied the signature of P.W.2 in Ex.B.3. Hence, the impugned application came to be filed seeking to summon the handwriting expert to prove their case.

It is to be noted that it is but natural for the persons, against whom the report is received, to deny the contents of the report. Merely because they have denied the contents of the report, it does not mean that an expert has to be summoned to speak to the contents of the report. The opinion/report given by the handwriting expert is in favour of the petitioners. If really, the opposite party is

aggrieved by the report, it is for them to take steps to dispute the contents of the report. But, definitely, it is not for the persons in whose favour of the report is given, to take steps to prove the contents of the report. Therefore, summoning of the handwriting expert to speak to the contents of the report is unwarranted, in the facts of the case. It is also to be seen that, the document is already marked and thereafter only it has been sent to the expert. Insofar as another ground i.e. Ex.B.3 is inadmissible piece of evidence is concerned, for the purpose of adjudication of said issue, examining the handwriting expert is not necessary. Therefore, the reasons given in the impugned order for rejecting the request of the petitioners are well in accordance with law and warrant no interference of this Court. However, while deciding the main case, the trial Court shall not be influenced by the observations made by it as well as this Court while rejecting the request of the petitioners.

Accordingly, the Civil Revision Petition is disposed of.

Miscellaneous petitions pending in this revision, if any, shall stand closed. No costs.

JUSTICE C. PRAVEEN KUMAR

24.08.2017
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