

**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**CIVIL REVISION PETITION No.1573 OF 2017**

**ORDER:**

Aggrieved over the order, dated 17.09.2013, in I.A. No.280 of 2013 in O.S. No.225 of 2010, passed by the learned Principal Senior Civil Judge, Mancherla, whereby and where-under an application filed under Section 45 of the Indian Evidence Act, 1872, requesting to refer Ex.A1 - promissory note to the hand-writing expert for the opinion on the signature purported to have been made by the petitioner - defendant with the admitted signatures, was rejected by dismissing the petition, the present Civil Revision Petition is filed by the petitioner.

2. It is unnecessary to enter into the details of fact-situation in the case on hand.

3. Heard Sri Pawan Kumar Agarwal, learned counsel for the petitioner. It is opined that there is no need to order service of notice on respondent - plaintiff in view of the fact that there appears no merit in the present revision petition as the order under challenge is not tainted with any patent illegality even a cursory glance at the order.

4. In paragraph No.6 of the order under challenge, the learned trial Court observed that the petitioner had suppressed a material fact in the affidavit filed in support of the petition as to the complaint made by him in Crime No.30 of 2011 of Srirampur Police Station and

the police after investigation finding it to be false. That has been considered by the learned trial Court and opined that the petitioner not having approached the Court with clean hands. In paragraph No.7, the learned trial Court has referred to Section 73 of the Act, and of course, there appears to be some sort of slight inconsistency in mentioning that there are no contemporaneous signatures of the petitioner before the Court below for comparison with the disputed signature on Ex.A1.

5. The learned Magistrate observes in paragraph No.7 that he finds considerable force in the contentions of the respondent that the Court itself can compare the disputed and admitted signatures of the petitioner which are already available on record in exercise of discretionary power under Section 73 of the Indian Evidence Act; that the apprehension of the respondent that if some more sample signatures of the petitioner are obtained by the Court, there would be possibility of the petitioner consciously changing his signatures to support his case, in which event, the respondent would be prejudiced and that there are no contemporaneous signatures of the petitioner before the Court for their comparison with the disputed signature on Ex.A-1. Having observed so, the learned Magistrate refers the sequence of events and examination of PW.1 in chief and failure of the petitioner to cross-examine him and the matter was coming up

with the aforesaid application to send Ex.A-1 promissory note to an expert for comparison and opinion.

6. These all occurred in the year 2013, as the order was rendered on 17.09.2013. The learned counsel would try to explain away the delay stating that wrongly an appeal was preferred challenging the order under challenge and later only the present revision petition is filed. It is really strange and un-understandable as to why the petitioner could choose to file an appeal against an interlocutory order and having kept quiet for about more than three years, coming forward now with the present request to overturn the order passed disavoursing him by the learned trial Court itself would speak volumes in approaching this Court without there being any merit.

7. The revision fails and, accordingly, the same is dismissed at the admission stage itself. No costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the revision, stand closed.

**March 31, 2017.**

Mgr

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**A. SHANKAR NARAYANA, J**