

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.4977 OF 2017

DATED:22-09-2017

Between:

Gollapalli Venkata Ramakrishna ... Petitioner

And

Bhagavan Sri Satya Sai Chits & Finance
Rep. by its Managing Partner
Nambala Narayana Murthy
Office at D. No.39-11-72,
Muralinagar Junction
Visakhapatnam, Visakhapatnam District ... Respondent

COUNSEL FOR THE PETITIONER: Mr. A.K. Kishore Reddy

COUNSEL FOR THE RESPONDENT: -



THE COURT MADE THE FOLLOWING:

ORDER:

This civil revision petition arises out of order dt.01.09.2017 in I.A. No.445 of 2017 in O.S. No.631 of 2010 on the file of the I Additional Senior Civil Judge, Visakhapatnam.

In the suit filed by the respondent against the petitioner for recovery of money based on a promissory note, the petitioner filed the aforementioned I.A. under Section 45 of the Indian Evidence Act, 1872, to send the disputed handwritings on Ex.A.1 promissory note to a handwriting expert for his opinion. The Court below while dismissing the said I.A. observed in its order that on 08.08.2016 the evidence of the petitioner – defendant was closed, that the case was posted for arguments as the petitioner did not turn up and that on the petition filed by the petitioner, the matter was reopened. The trial Court also observed that in his cross-examination as D.W.1 the petitioner admitted his signature on the revenue stamp on the promissory note and also the handwriting “under the promissory note”, (obviously referable to the bottom portion of the promissory note) as belonging to him. The Court below has further observed that though in the written statement the petitioner has taken the stand that certain handwritings do not belong to him, he has not filed any application for referring Ex.A.1 to a handwriting expert till the matter reached the stage of arguments and that therefore his conduct shows that the petitioner intended to procrastinate the matter.

After hearing Mr. A.K. Kishore Reddy, learned counsel for the petitioner, I am of the opinion that being the defendant the petitioner has raised the necessary plea disputing certain writings on the promissory note. The respondent, who is the plaintiff in the suit, has to discharge his

initial burden to prove the genuineness of Ex.A.1 promissory note and the writings thereon. As he has failed to seek reference of Ex.A.1 to a handwriting expert, the plaintiff has taken a calculated risk. Therefore, I do not find any reason for the petitioner to take the initiative for sending the promissory note for an expert's opinion. With regard to the observations of the Court below about the alleged admissions of the petitioner in his cross-examination as D.W.1, it is made clear that the same shall not influence the final adjudication of the suit by the Court below which shall decide the suit based on the evidence on record and the submissions advanced by the counsel for both parties.

Subject to the above observations, the civil revision petition is dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. No.6479 of 2017 shall stand disposed of as infructuous.

22-09-2017

bnr

C.V. NAGARJUNA REDDY, J

