

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.1891 of 2017

ORDER:

Defendants in O.S.No.15 of 2014 on the file of the Court of the III Additional District Judge (FTC), Ananthapuram, are the petitioners in the present revision filed under Article 227 of the Constitution of India.

Heard Sri K. Srinivas, learned counsel for the petitioners, and Sri M. Manohar Reddy for the respondent apart from perusing the material available before the Court.

The respondent herein instituted the present suit against the petitioners for recovery of money on the foot of promissory notes alleged to have been executed by the husband of the 1st petitioner. In the said suit, the petitioners filed the instant I.A.No.80 of 2017 under the provisions of Section 45 of the Indian Evidence Act (for short, "the Act") read with Section 151 of the Code of Civil Procedure, 1908, praying the Court below to send the alleged signatures of the 1st petitioner's husband for the opinion of the expert. The learned District Judge, by way of the order under challenge, dismissed the said application.

It is contended by the learned counsel for the petitioners that the questioned order is erroneous, contrary to law and opposed to the very spirit and object of the provisions of Section 45 of the Act and that no prejudice would be caused to the respondent/plaintiff in the event of the application

being allowed. It is submitted by the learned counsel that if the petition is allowed and the report of the expert is called for, the same would be helpful for arriving at just conclusion by the Court below.

On the contrary, it is contended by the learned counsel for the respondent/plaintiff that there is no error in the order under challenge and that the order passed by the Court below does not suffer from any jurisdictional error nor perversity, as such, the same needs no interference of this Court under Article 227 of the Constitution of India.

The information available before this Court manifestly discloses that when the suit was coming up for cross-examination of PW.2, the present application came to be filed by the petitioners/defendants. Earlier, the petitioners filed I.A.No.947 of 2015 before the Court below under Section 45 of the Act and the learned Judge dismissed the said application on the ground of non-production of admitted signatures of the husband of the 1st petitioner and the said order was confirmed by this Court in C.R.P.No.3868 of 2016. Now the petitioners sought the same relief by enclosing the non-judicial stamp, dated 02.12.2004, and a photostate copy of the sale agreement, dated 23.05.2005, allegedly containing the signatures of the 1st petitioner's husband. The learned District Judge considered the admissibility of the said documents and recorded cogent reasons for rejecting the request of the petitioners.

It is settled and well established preposition of law that unless the order impugned suffers from jurisdictional error and perversity, the jurisdiction of this Court under Article 227 of the Constitution of India cannot be invoked.

For the aforesaid reasons, the civil revision petition is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed. There shall be no order as to costs.

Date: 21.07.2017
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A.V.SESHA SAI, J