

HONOURABLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION No.2483 of 2011

Date: 12.10.2017

Between:

Renikunta Laxmikantham S/o. Narayana,
Aged 57 years, Occu: Teacher, r/o. Dharmapuri village,
Presently residing at Jagtial Town, Karimnagar district.

.....Petitioner/petitioner/
Defendant

and

Gouda Suryanarayana S/o. Yellappa, Aged 54 years,
Occu: Business, R/o. Krishnanagar, Jagtial village &
Mandal, Karimnagar District.

.....Respondent/respondent/
Plaintiff



The Court made the following:

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ORDER:

Plaintiff filed the suit in O.S.No.104 of 2005 on the file of Senior Civil Judge at Jagital, claiming to pay an amount of 1,62,500/- with interest. Plaintiff placed reliance on Ex.A1-money bond claimed to have executed by the petitioner/defendant. After examination of P.w.1, and the attesor, who was cited as P.W.2, petitioner herein filed I.A.No.856 of 2010 under Section 45 of the Indian Evidence Act, praying to send Ex.A1-bond to the Handwriting Expert. Petitioner sought to contend that the signature of attesor was obtained much later to the date of alleged execution of bond, at least 2½ years, and, therefore, the said claim of execution is not valid.

2. In the written statement filed by the petitioner, it was categorical assertion of the petitioner that he never executed the bond claimed by the plaintiff and there was no such money transaction. However, there is no whisper in the written statement disputing the alleged signature of P.W.2. When specifically asked, the counsel is unable to state as to whether this issue was elicited in the cross-examination of P.W.2.

3. On consideration of the facts in issue and legal position, trial Court opined that opinion of Handwriting Expert is not binding on the Court and no purpose would be served in sending Ex.A1-bond for opinion of Handwriting Expert. Trial Court also observed that it is possible to sign on a document with different ink.

4. Learned counsel for petitioner placed reliance on the decision of learned single judge of this court in **S.Syamala Devi v. Kantam Leelavathi**¹ and has drawn the attention of this Court to paragraph-5 of the judgment.

5. A bare perusal of paragraph-5 of the judgment would show, in that case, in the concerned document there were alterations at more than one place and were evident from the document itself. Therefore, this Court felt it necessary to send the document for examination by an expert to assist the Court below in arriving at a just conclusion while deciding the suit.

6. In the instant case, the request for referring to Handwriting Expert opinion is only on the ground that different ink is used, but no other material is placed on record before this Court to justify such request. However, as seen from the averments on record, petitioner sought to contend that the signature of P.W.2 was obtained just before institution of the suit only on the ground of use of different ink. Having regard to the facts of this case, the decision relied by the learned counsel for petitioner do not come to his aid.

7. Having regard to these facts, I do not see any error committed by the trial Court, much less patent error warranting interference by this Court at this stage. Civil Revision Petition is dismissed accordingly. However, it is made clear that it is open to respective parties to raise all submissions as available in law in the pending suit.

¹ 2016 (5) ALT 779

Miscellaneous petitions, if any, pending in this revision petition shall stand closed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

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kkm



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