

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 1466 of 2017

ORDER:

1) Assailing the order dated 17.02.2017 passed in I.A.No.650 of 2016 in O.S.No.53 of 2015 on the file of the v Additional District Judge, Triupati, wherein an application filed by the petitioner/defendant No.1 u/s.45 of the Indian Evidence Act was rejected, the present Civil Revision Petition is filed.

2) The respondent/plaintiff filed O.S.53/2015 directing the defendants, jointly and severally pay to the plaintiff a sum of Rs.18,66,525/- with interest at 12% p.a. from the date of the plaint till the date of realization. Pending the suit, the present I.A. was filed. The averments in the I.A. filed by the defendant would show that he claims to have purchased the plaintiff's property from one B.Ramanjaneyulu under a regd. Sale deed dt:07.10.2005 and then executed an agreement of sale-cum-General Power of Attorney dt:21.04.2007 in favour of R-2 who is a practicing Advocate, authorizing him to deal with the property and the registered sale agreement. The second respondent verified the records and executed the sale agreement-cum-GPA in favour of D-2. The defendant stated that he never signed the document dt:10.04.2008, which was marked as Ex.A-3 and executed in favour of second

defendant. He also states that he never gave the said photographs affixed to the sale deeds.

3) After considering the material, the trial court rejected the application, challenging the same the present Civil Revision Petition is filed.

4) The learned counsel for the petitioner mainly submits that the photograph which was affixed on the agreement of sale-cum-GPA is not that of the petitioner and that the signature is also a forged one. According to him, D-1 claims that he purchased the property on 07.10.2015 from Anjaneyulu and sold the property to second defendant under an agreement cum-General Power of Attorney on 21.04.2007, who in turn sold the property to the plaintiff on 10.04.2008. It is said that in O.S.667 of 2005 the plaintiff is not a party to the proceedings and the second defendant who purchased the property was also not a party to the suit. The original vendor lost title long after the sale by D-1 in favour of D-2 and D-2 in favour of plaintiff. Such being the position, it is just and necessary to send the sale deed Ex.A-3 to Government lab. It is further stated that in the year 2012 itself, the petitioner/first defendant gave a report against the plaintiff and second defendant which came to be registered in Crime No.70/12 at MR Palli Police Station.

5) As seen from the record, the petitioner has taken the plea of forgery in the written statement filed by him in the month of July 2013. Much prior to that, he also lodged a report against the plaintiff and second defendant, which lead to registration of crime in the year 2012.

6) In **Velaga Sivarama Krishna v. Velaga Veerabhadra Rao and another**¹ this Court held as under:

"Whenever a party disputes the signature on a particular document, two remedies are open to him, either to request the Court to compare the signatures or to file an application to send the document to the expert for comparison. When the petitioner opted to file an application to send the document to the Handwriting Expert, no prejudice will be caused to either party. When he is asserting that the signature is that of the said party, even though there is a gap between the disputed signatures and admitted signatures, a science has been developed to compare such signatures also by taking into consideration the direction of the strokes, the speed of writing, the pattern of writing etc., therefore, it cannot be said that no useful purpose will be served by sending the document to the expert."

7) It is the case of the petitioner that he has specifically pleaded in the written statement that he was not an executant and he has denied his signature on Ex.A-3 and further a criminal complaint was also lodged. After going through the document-Ex.A-3 he filed the application under Section 45 of the Evidence Act for sending the document for comparison of his signature. When there is a specific pleading in the written statement disputing his signature, he is

¹ 2009(1) ALD 265

entitled to seek for comparison of his signature particularly when the plaintiff filed the suit for recovery of amount against the petitioner also, who has denied his signature in the very sale deed itself.

8) In view of the facts and circumstances of the case, and law laid down by this Court in the above judgment, the C.R.P. is allowed and the trial court is directed to send the sale deed-Ex.A-3 along with admitted signatures and finger prints of the petitioner to the Government Handwriting expert, Hyderabad for comparison and for opinion. No costs. Miscellaneous Petitions, pending if any in this C.R.P. shall stand closed.



JUSTICE C. PRAVEEN KUMAR

Dt:20.07.2017
GM