

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION Nos.3998 and 4062 of 2017

COMMON ORDER:

These Civil Revision Petitions are filed challenging the separate orders, dated 02.03.2017, passed by the learned Senior Civil Judge, Kadiri, in I.A.No.472 of 2016 in I.A.No.32 of 2016, and I.A.No.32 of 2016 in O.S.No.95 of 2013, respectively.

Respondent/plaintiff filed O.S.No.95 of 2013 in the Court of Senior Civil Judge, Kadiri, against the petitioner/defendant, seeking to recover a sum of Rs.1,00,000/- with interest, based on Exs.A.1 and A.2 - suit promissory notes.

In the said suit, the petitioner filed I.A.No.32 of 2016 seeking to send Exs.A.1 and A.2 to the Hand Writing and Finger Print Expert for comparison of the signatures and handwriting found therein with the admitted signatures and handwriting and report.

The petitioner also filed I.A.No.472 of 2016 in I.A.No.32 of 2016 with a prayer to send the loan agreement and vouchers of 2010 containing his signatures, pertaining to his crop loan account No.19149007281 of Andhra Pragathi Bank, Nallamada.

By the order under revision, the Court below dismissed the said I.A. observing that it is competent to compare the signatures and for the purpose of comparison, there are about 20 admitted signatures of the defendant available on record and that there appears no discernible difference in the strokes, pattern and style of the defendant putting the signatures.

At the same time, the Court below by the order under revision dismissed I.A.No.32 of 2016 also in view of dismissal of I.A.No.472 of 2016.

Learned counsel for the petitioner would submit that on account of the age, there is always possibility of the signatures to vary; that though there are admitted signatures, which are available on record, they are not of contemporaneous nature and that as Exs.A.1 and A.2 are of 2010 and the loan agreement and other documents, which are available with the bank, are also of the same year, in the interests of justice, it would be just to compare the petitioner's signatures, which are available with the bank, with that of the signatures on Exs.A.1 and A.2. He would also submit that the petitioner has taken a specific plea that the signatures on Exs.A.1 and A.2 are not of him and therefore, the burden lies on him to prove the same.

Learned counsel appearing for the respondent vehemently opposed these Civil Revision Petitions contending that the petitioner filed aforesaid Interlocutory Applications at a belated stage, only to drag on the suit proceedings.

Considering the respective submissions and in view of the fact that if adequate opportunity is given to the petitioner to make out his version of the case, no prejudice would be caused to the respondent, this Court is of the opinion that the orders under revision may be set aside and I.A.Nos.32 and 472 of 2016 may be allowed putting the petitioner on terms.

Accordingly, these Civil Revision Petitions are allowed, the orders under revision are set aside and I.A.Nos.32 and 472 of 2016 are allowed, on condition of the petitioner paying costs of Rs.5,000/- (Rupees Five Thousand only) to the respondent, within a period of one week from the date of receipt of a copy of this order. The Court below shall summon the documents from the bank relating to the petitioner's crop loan account No.19149007281 and send the same along with Exs.A.1 and A.2 to the Forensic Science Laboratory, Hyderabad, for comparison and report, by indicating reasonable time limit therefor. The Court below shall also make an endeavour to dispose of

O.S.No.95 of 2013 in accordance with law, within a period of six weeks from the date of receipt of FSL report.

Miscellaneous Petitions, if any pending shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

8th DECEMBER, 2017.

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