

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.4007 of 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, came to be filed assailing the order dated 19.06.2017 passed by the Principal Junior Civil Judge, Madanapalle, in I.A.No.94 of 2017 in O.S.No.415 of 2008 whereby and whereunder the application filed by the petitioners herein under Section 151 of the Code of Civil Procedure (for short 'CPC') seeking to send Exs.A.1 and B.1 to finger print expert for comparison with thumb impression of one Siddappa in Exs.A.1 and B.1, came to be dismissed.

The case of the petitioners is that the maternal uncles of the second petitioner herein namely Rompicherla Siddappa and Gangaiah executed a registered relinquishment deed dated 14.03.1971, in respect of all the family properties, which are the subject matter of the suit, in favour of the first petitioner and the said document was marked as Ex.A.1. The defendants filed Ex.B.1 registered gift deed dated 03.01.1985 executed by said Siddappa in favour of 1st defendant and Ramappa and the said document was marked as Ex.B.1. Thus, in order to arrive at a just conclusion, the thumb impressions affixed by Siddappa in Ex.A.1 is to be compared with the thumb impressions affixed in Ex.B.1 and for the said purpose the impugned application was filed seeking to send the thumb impressions of Siddappa in Exs.A.1 and B.1 for comparison.

The respondents herein, who are defendants in the suit, filed a counter affidavit before the Court below contending that in the suit, which was filed for permanent injunction, the evidence of both sides was completed and the matter is also posted for arguments and at

that stage, the impugned application was filed for sending the thumb impressions of Siddappa to Finger Print Expert for comparison, only to stall the further proceedings in the suit. Hence, prayed to dismiss the petition with costs.

As stated earlier, after perusing the contents of the petition and counter and hearing both sides, the Court below dismissed the application of the petitioner. Aggrieved by the same, present revision is filed.

Heard the learned counsel for the petitioner and perused the material on record.

Since this Court is not passing any orders against the respondents, there is no necessity to issue notice to them.

It is to be noted that the suit is of the year 2008, the written statement was also filed during the same period and the suit is now coming up for 'arguments'. Ex.A.1 is the registered relinquishment deed and Ex.B.1 is the registered gift deed. The main ground urged by the petitioners, for sending the documents to Expert, is that in the written statement the defendants have disputed execution of Ex.A.1. Though the written statement was filed in the year 2008 itself, for the reasons best known to them, the petitioners have not taken any steps to send Ex.A.1 relinquishment deed to Finger Print Expert for proving the thumb impression of Siddappa, till the suit is posted for arguments. Further, as observed by the trial Court, as long as the thumb impression of Rompicherla Gangaiah, who is the co-attestor of Ex.A.1, is also sent to the Expert for comparison, the dispute raised by the defendants, with regard to execution of Ex.A.1 still subsists and no purpose would be served if the impugned application is

allowed. Be that as it may, taking into consideration the attitude of the petitioners in keeping quiet till the suit is posted for arguments and in the absence of any reasonable explanation by the petitioners for keeping quiet for about nine years before making the application, this Court is of the view that the Court below rightly rejected the application of the petitioners and as such the impugned order needs no interference of this Court.

Accordingly, the Civil Revision Petitions is dismissed at the stage of admission.

Miscellaneous petitions pending in this revision, if any, shall stand closed. No costs.

18.08.2017
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JUSTICE C. PRAVEEN KUMAR

