

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 325 of 2017

ORDER:

1) The present Civil Revision Petition is filed under Article 227 of Constitution of India by the petitioner-defendant aggrieved by an order, dated 10.11.2016 passed in I.A.No.563 of 2016 in O.S. No.149 of 2013 on the file of the Principal Senior Civil Judge, Chittoor, wherein an application filed by the petitioner-defendant, under Section 45 of Indian Evidence Act, to send the suit promissory note along with admitted signatures of petitioner-defendant available in the case bundle to the Hand Writing Expert for opinion, was rejected.

2) Basing on the promissory note, the respondent-plaintiff filed O.S. No.149 of 2013 stating that the petitioner-defendant borrowed an amount of Rs.4,50,000/- from her on 03.03.2010 to his family necessities and in consideration received thereof, the petitioner-defendant executed a promissory note on the same day in favour of the respondent-plaintiff promising to repay the same with interest at 24% per annum. As the petitioner-defendant failed to repay the amount in spite of repeated demands, the present suit came to be filed. During pendency of the said suit, the petitioner-defendant filed the present I.A. No.563 of 2016, for sending the promissory note to the handwriting expert, disputing the signature on the said

promissory note. The request of the petitioner-defendant came to be rejected on the ground that the documents, which are filed in the Court viz., signatures in the vakalat and written statement are different from the pattern of signatures on Ex.A1, hence no purpose would be served in sending the documents to expert. It was further held that the oral evidence adduced by both parties is sufficient to adjudicate the real controversy between the parties. Challenging the same, the present Civil Revision Petition is filed.

3) It is submitted by the learned counsel for the petitioner-defendant that the petitioner-defendant never signed on the promissory note and that his signature was forged. Hence, pleads that it is just and proper to send the said documents to the hand writing expert.

4) It is to be noted that no useful purpose would be served if the promissory note is send to the handwriting expert for comparison, since the signature of the petitioner-defendant on the vakalat and written statement - Exs.B1 and B2 are admittedly not similar with the signature on Ex.A1. That being the position, the issue as to whether the petitioner-defendant has signed on the promissory note can be decided during the trial basing on the oral evidence adduced by both parties. At this stage, counsel for the petitioner-defendant submits that one of the reasons for rejecting the petition was

that petitioner-defendant did not file contemporary signatures and not produced his Service Register. Since the Court has already held that the issue can be decided basing on the evidence adduced by both parties, this Court is of the view that it may not be necessary to go into the said issue at this stage. Hence, I find no illegality or perversity in the order passed by the trial Court.

5) The counsel for the petitioner-defendant further submits that he has material to show that the signature on Ex.A1 is not that of the petitioner-defendant. The petitioner-defendant can do so, in which event, the same shall be dealt with in accordance with law.

6) Accordingly, the Civil Revision Petition is dismissed. No order as to costs.

7) Miscellaneous Petitions, if any, pending in this Civil Revision Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

27.01.2017
skmr