

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 185 of 2017

ORDER:

1) Assailing the order, dated 06.12.2016, passed in I.A.No.627 of 2016 in O.S.No.569 of 2013 on the file of the Principal Senior Civil Judge, Chittoor, wherein an application filed under Section 45 of the Indian Evidence Act to send the suit promissory note to handwriting expert, was dismissed, the petitioner, who is defendant, filed the present Civil Revision Petition under Article 227 of the Constitution of India.

2) For the sake of convenience, the parties hereinafter referred to as arrayed in the suit.

3) The facts in issue are as under:

The plaintiff filed the above suit for recovery of Rs.3,69,777/- with interest @ 24% p.a. basing on a suit promissory note, dated 15.10.2010. After completion of his evidence as DW.1, the defendant filed I.A.No.627 of 2016 to send the suit promissory note to an Hand Writing Expert for comparison with the admitted signatures on vakalat, written statement, registered gift settle deed dated 04.07.2011 and the original gate pass book dated 07.02.2001, on the ground

that suit promissory note was forged by the plaintiff with the help of the attestors and scribe.

4) A counter came to be filed by the plaintiff contending that prior to filing of the suit, he furnished copy of promissory note to the defendant along with the notice. It is said that after receipt of legal notice, the defendant changed his mode of signatures in all the subsequent records and as such the defendant is not entitled to send the document to the handwriting expert for comparison.

5) After considering the rival arguments advanced, the trial Court dismissed the petition. Challenging the same, the present Civil Revision Petition is filed.

6) Learned counsel for the petitioner would submit that since the allegation against him being that he is said to have changed his signature after the execution of suit document, the documents containing the signature of the defendant prior to 2010 may be sent for comparison.

7) In spite of service of notice there is no representation on behalf of the respondent/ plaintiff.

8) The main reason for rejection appears to be that the petitioner/ defendant has changed his signatures after 2010 ie. after the date of execution of the promissory note and

that no useful purpose would be served if the promissory is sent to the expert with the documents, which were executed after the year 2010. It is true that the evidence of handwriting expert cannot be treated as substantive piece of evidence but it can be used as a corroborate piece of evidence.

9) Having regard to the facts and circumstances of the case and as the correction of the signature on the pronote and is in resolving the dispute, the Civil Revision Petition is allowed directing the trial Court to send the promissory note to an expert along with the documents which were executed prior to the date of execution of the promissory note namely gate pass book dated 07.02.2001 and other documents if any available with the petitioner and which were executed prior to 2010.

10) There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this Civil Revision Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

13.04.2017
gkv

