

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.1079 of 2017

ORDER:

This Civil Revision Petition is filed challenging the order dated 30.11.2016 in I.A.No.260 of 2016 in O.S.No.130 of 2015 passed by the learned Junior Civil Judge, Atmakur, S.P.S.R. Nellore District.

The case of the petitioner is that he filed I.A.No.260 of 2016 in O.S.No.130 of 2015 under Section 45 of the Indian Evidence Act (in short "the Act") and Section 151 of Code of Civil Procedure praying to send the Ex.A1 suit promissory note dated 10.10.2012 filed by the respondent/plaintiff in the suit to Handwriting expert to determine the age of ink used in the body of the promissory note and age of ink used by the attestors of the suit promissory note, used for execution of suit promissory note. However, the said petition was dismissed by the court below without considering the scope of Section 45 of the Act and the ratio laid down in **Penumastha Ramachandra Raju Vs. Gaddam Raja Sekhar Reddy**¹. Aggrieved by the same, present Civil Revision Petition is filed.

Heard the learned counsel for the petitioner.

A perusal of the record reveals that the Court below had framed a point for consideration is "*Whether the petitioner U/sec.45 of Evidence Act and Section 151 CPC to send the Ex.A1 suit promissory note dated 10.10.2012 to Handwriting Expert to determine the age of ink used in the body of the promissory note*

¹ 2005 (6) ALT 49

and age of ink used by the attestors of the suit promissory note used for execution of suit promissory note dated 10.10.2012 is to be allowed or not?

It is brought to the notice of this Court that as of date there is no technology available, which would enable to determine the age of the ink in promissory note. In other words, the relief of the nature which the petitioner seeks cannot be granted in the Interlocutory Application. Further, in the similar circumstances, this issue has been settled by a judgment of this Court in **Takkella Radhakrishnaiah and two others v Ganipaineni Nagaraju**².

In those circumstances, this Civil Revision Petition is dismissed. There shall be no order as to costs.

Consequently, the Miscellaneous Petitions, if any pending, shall also stand dismissed.

CHALLA KODANDA RAM, J.

Date:03.03.2017
Ssv

² 2017 (2) ALT 9