

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

CIVIL REVISION PETITION No. 1336 of 2013

ORDER:

This civil revision petition is filed by the defendants challenging the orders, dated 06.12.2012, passed by the Senior Civil Judge, Peddapuram, in I.A.No.722 of 2012 in O.S.No.85 of 2004, allowing the said application filed by the plaintiffs with a prayer to send the original Will along with A-Register produced by the Sub-Registrar, Prathipadu, to the Director, F.S.L., Hyderabad, for comparison and opinion.

Heard the learned counsel on both sides and perused the record.

It has been contended by the counsel for the petitioners/defendants that the Court below ought not to have allowed the application filed by the respondents/plaintiffs, since there is a time gap of 10 years from the date of the Will, dated 09.01.2001, and the admitted signatures of the year.

On the other hand, it has been argued by the counsel for the respondents/plaintiffs that a Full Bench of this Hon'ble Court in a judgment in *Bande Siva Shankara Srinivasa Prasad Vs. Ravi Surya Prakash*¹ held that the Court is not barred from sending disputed hand writing/signatures for comparison to an expert, merely because the time gap between the admitted hand writing/signatures and the

¹ 2016 (2) ALD 1 (FB)

disputed hand writing/signatures is long, that the Court must however endeavor to impose upon the petitioning party that comparison of disputed hand writing/signatures with admitted hand writing/signatures, separated by a time lag of 2 to 3 years, would be desirable so as to facilitate expert comparison in accordance with satisfactory standards, that being said, there can be no hard and fast rule about this aspect and it would ultimately be for the expert concerned to voice his conclusion as to whether the disputed hand writing/signatures and the admitted hand writing/signatures are capable of comparison for a viable expert opinion, and that the view expressed by the Division Bench in 2008 (4) ALD 339 (DB), as to the stage of the proceedings when an application can be moved by a party under Section 45 of the Indian Evidence Act, 1872, continues to hold the field and there is no necessity to address that issue.

In view of the law as declared by the Full Bench, there are no merits in the present Civil Revision Petition and, accordingly, it is dismissed.

Consequently, the interim stay granted on 22.03.2013 is vacated and miscellaneous petitions if any pending in the revision shall stand dismissed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

13th October, 2017
cbs

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



CIVIL REVISION PETITION No. 1336 of 2013
(dismissed)

13th October, 2017

cbs