

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CRP No.6009 OF 2017

ORDER ::

This civil revision petition is filed against the order dated 23-10-2017 passed IA No.922 of 2017 in OS No.46 of 2016 by the III Addl. District Judge, Bhimavaram, dismissing the said application filed under Section 45 of the Evidence Act, 1872, r/w. Section 151 of Code of Civil Procedure, filed by the revision petitioner herein, who is defendant in the suit.

2. The plaintiff-respondent herein filed the suit for recovery of an amount of Rs.38,47,500/- based on suit promissory note, marked as Ex.A-1, said to have been executed by the defendant for a sum of Rs.25,00,000/- on 11-08-2013 in favour of the plaintiff. The plea of the defendant is one of denial. That the suit promissory note is a rank forgery document and it does not contain the true signature of the defendant. In the background of these averments, the plaintiff filed the instant interlocutory application to send the suit promissory note (Ex.A1) to handwriting expert for his opinion after comparing the signature of the defendant on vakalat, suit summons and signature to be taken in the open Court. By

the impugned order, the Court below dismissed the application. Hence, this civil revision petition.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4. Learned counsel for the petitioner contended that the Court below ought to have allowed the application in view of denial of the signature by the defendant on suit promissory note (Ex.A1). On the other hand, learned counsel for the respondent made submissions in support of the order passed by the Court below.

5. It is to be seen that suit promissory note (Ex.A1) is stated to have been executed on 11-08-2013 in favour of the plaintiff. Admittedly, the documents with which the disputed signature on Ex.A-1 is to be compared *viz.*, vakalat, suit summons and signature of the defendant to be obtained in the Court would be signatures subsequent to the execution of suit promissory note and, therefore, as observed by the Court below, the possibility of the defendant disguising his style of signature to make it appear dissimilar with that of the disputed signature on Ex.A1, cannot be ruled out. In the circumstances, the

order passed by the Court below does not suffer from any illegality or irregularity. Further, the order passed is a discretionary order and it is settled proposition of law, interference with the exercise of discretion by the Court below, normally cannot be resorted to, unless the order is shown to be arbitrary or capricious. This is not a fit case to exercise jurisdiction under Article 227 of the Constitution and interdict with the impugned order. The civil revision petition fails and it is accordingly dismissed. Miscellaneous petitions, if any pending in this case shall also stand dismissed. There shall be no order as to costs.



A. RAJASHEKER REDDY, J

Dated: 30-11-2017
NRG

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