

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL REVISION PETITION No.5525 OF 2017

ORDER:

This Civil Revision Petition is arising out of the common order dated 30.07.2017 passed in I.A Nos.196 and 198 of 2017 in O.S. No.92 of 2011. The said I.As are filed under Section 151 C.P.C by the petitioner/ defendants to reopen the suit and send the document to another handwriting expert for second opinion under Section 45 of Indian Evidence Act and the same was dismissed.

2. Heard arguments of learned counsel for petitioner and learned counsel for the respondent.

3. Learned counsel for the petitioner submits that the petitioner has denied the signature on the promissory note and therefore he filed the petition before the trial Court to send the document to the expert and the expert gave opinion. He further submitted that the expert did not give any reason in his opinion and came to the conclusion that the disputed signature is tallied with the admitted signatures of the petitioner, challenging the same, he filed a petition to send the disputed signature on the promissory note to a second expert but the same was dismissed by the trial Court without giving any cogent reasons.

4. It is submitted that the said observation of the trial Court is not in accordance with law and therefore, the orders passed by the trial Court may be set-aside.

5. Sri K.Bhaskara Rao, learned counsel for respondent submits that the trial Court has passed a reasoned order, at the instance of petitioner/ defendant, the document was sent to the handwriting expert and he has given his opinion. Hence, there are no valid reasons to send the disputed signature for second opinion by ignoring the opinion of the 1st expert. He further submitted that the suit is pertaining to the year 2011 and the entire trial has been completed by examining the witnesses in December, 2016, hence there is no need to send the document to second expert for his opinion in the matter.

6. On consideration of the facts and circumstances of the case and the arguments of learned counsel appearing on both sides, this Court is of the considered view that at the instance of petitioner/ defendant the document was sent to expert, and he gave opinion. The petitioner has stated the said fact, in his chief affidavit that the handwriting expert without assigning any reasons opined that the admitted and disputed signature were scribed by the same person, therefore he wanted to send Ex.A1 for comparison with the admitted signatures to second handwriting expert for his opinion. The affidavit filed by the petitioner does not disclose any reasons for sending the documents again to the second expert.

7. In the absence of any specific reasons in the affidavit and the report of 1st expert does not appear to be defective, the sending of the document to the handwriting expert for 2nd opinion does not arise. The petitioner's counsel submitted that the handwriting

expert has not given any reasons for coming to the conclusion that the disputed signature and admitted signatures are signed by same person. As a matter of fact all these facts are not mentioned in the affidavit, with specific defects in the opinion of the expert. However, the petitioner during arguments may raise all those defects before the trial Court. Therefore, there are no grounds to interfere with the order passed by the trial Court dismissing the IAs.

8. It is also pertinent to note that since the suit is of the year 2011 and the entire trial is completed, there are no valid grounds to send the document to the expert for his opinion, at this stage of the suit proceedings. The petitioner may take advantage of the opinion of hand writing expert in case he has not given cogent reasons for comparison of signatures, during his arguments.

9. With these observations, the Criminal petition is dismissed directing the trial Court to dispose of the case expeditiously. Consequently, Miscellaneous petitions, if any pending in this Petition, shall stand closed.

27.10.2017.
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GUDISEVA SHYAM PRASAD, J