

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.3041 OF 2016

ORDER:

This civil revision petition is filed, under Article 227 of Constitution of India, challenging the order dated 06.4.2016 in I.A. No.948 of 2014 in O.S. No.708 of 2006 on the file of the Court of VIII Additional District & Sessions Judge, Ranga Reddy District, at L.B. Nagar.

2. The contention of learned counsel for the petitioner is three fold: (1) the finding of the trial court that D.W.1, in the cross-examination, admitted his signature on Ex.A1 is factually incorrect; (2) mere dismissal of the similar petition filed earlier as not pressed itself is not a valid ground to dismiss the present petition; and (3) *ex facie* there is illegality in the order passed by the trial court; therefore, it is a fit case to set aside the same by allowing the revision petition. ***Per contra***, learned counsel for the respondent submitted that I.A. No.948 of 2014 is filed at the time of arguments; therefore, the I.A., is not maintainable. He further submitted that there is no illegality or irregularity in the order passed by the trial court, to warrant interference by this court.

3. A perusal of the record reveals that the first respondent filed O.S. No.708 of 2006 on the file of the Court of VIII Additional District & Sessions Judge, Ranga Reddy District, at L.B. Nagar, against the petitioner herein for specific performance basing on the agreement of sale dated 14.7.2006. The petitioner filed written statement opposing the claim of the first respondent. When the suit was at the stage of arguments, the petitioner filed I.A. No.948

of 2014 to reopen the matter for the purpose of sending Ex.A1 to the Expert. The petitioner also filed I.A. No.947 of 2014 to send Ex.A1 to the Expert for comparison of the alleged signature of the petitioner on Ex.A1 with her admitted signatures. After affording reasonable opportunity to both parties, the trial court dismissed I.A. No.948 of 2014. Hence, the revision.

4. The record further reveals that the petitioner filed I.A. No.366 of 2014 to reopen the matter and I.A. No.369 of 2014 to send Ex.A1 with admitted signatures of petitioner for comparison and opinion. On 01.9.2014, the petitioner not pressed I.A. Nos.366 and 369 of 2014 and hence the trial court dismissed the same. Again the petitioner filed I.A. No.948 of 2014 to reopen the matter and I.A. No.947 of 2014 to send the document in question to the Expert for comparison of the signature of petitioner on such document. The relief sought in I.A. Nos.366 and 369 of 2014 and I.A. Nos.948 and 947 of 2014 respectively is one and the same. I have carefully perused the affidavit filed in support of the revision. The petitioner has not assigned reasons much less cogent and valid reasons for not pressing the previous applications. The trial court made an observation that the petitioner as D.W.1, in the cross-examination, admitted her signature on Ex.A1. It is needless to say that admitted facts need not be proved. If really Ex.A1 is forged document, what prevented the petitioner to file application at the earliest point of time. For the reasons best known, the petitioner kept quiet till the matter is posted for arguments. When the suit came up for arguments, the petitioner filed I.A. No.366 of 2014, which was dismissed on 01.9.2014 as not pressed. For the self same relief, the petitioner filed I.A. No.948 of 2014. This itself

indicates the conduct of the petitioner. It is needless to say that the opinion given by an Expert is not a substantial piece of evidence. The trial court rightly considered all the relevant aspects and dismissed the petition. The trial court has assigned reasons much less cogent and valid reasons to its findings. I am fully agreeing with the findings recorded by the trial court. There is no illegality or irregularity in the order passed by the trial court, which warrants interference of this court while exercising jurisdiction under Article 227 of Constitution of India. The revision petition lacks merits and bona fides.

5. Accordingly, the civil revision petition is dismissed. Miscellaneous petitions if any pending in this petition shall stand closed.

Date: 21.4.2017
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T.SUNIL CHOWDARY, J.

