

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

SECOND APPEAL NO.1354 OF 2017

DATED:08-12-2017

Between:

Medisetti Durgalu
and another

... Appellants

And

Mrs. Tekupudi Parvathidevi

... Respondent

COUNSEL FOR THE APPELLANTS: A. Srinivasa Sarma

COUNSEL FOR THE RESPONDENT: -



THE COURT MADE THE FOLLOWING:

JUDGMENT:

The defendants in O.S. No.264 of 2012 on the file of the Principal Senior Civil Judge, Gajuwaka, filed this second appeal aggrieved by judgment and decree dt.27.03.2015 passed in the aforesaid suit as confirmed by judgment 13.04.2017 in A.S. No.118 of 2015 on the file of the XIII Additional District Judge, Gajuwaka.

2. At the hearing, the only submission advanced by the learned counsel for the appellants is that the trial Court has dismissed the application filed by the appellant for sending the disputed signature on the suit promissory note to a handwriting expert for his opinion and that within two days of such dismissal, it has disposed of the suit without giving the appellants an opportunity of questioning its order dismissing the said application.

3. In my view, disposal of the suit would not have deterred the appellants from questioning the order of the trial Court dismissing the application filed for referring the disputed signatures to an expert. They, however, did not avail any legal remedy against the said dismissal. Even otherwise, the opinion given under Section 45 of the Indian Evidence Act, 1872 (for short, “the Act”), by an expert has only persuasive value and

the same is not binding. On the contrary, under Section 73 of the Act, the Court is empowered to compare the disputed signature with the admitted signature of the party. A perusal of the judgment of the trial Court shows that on examination of the contents of the suit pronote, the signatures and the thumb impression therein, a specific finding was rendered that the suit promissory note was not a fabricated one. This being a finding of fact which was confirmed by the lower appellate court, this Court would not interfere with such finding in second appeal.

Therefore, I do not find any substantial questions of law arising in this second appeal which is accordingly dismissed.

As a sequel to dismissal of the second appeal, S.A.M.P. No.2767 of 2017 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

08-12-2017

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