

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

C.R.P. No.786 of 2018

ORDER:

Challenge in this Civil Revision Petition at the instance of petitioners herein/respondents 1, 2, 4 to 10, is the order dated 14.11.2017 in I.A.No.408/2012 in SROP No.1/2009 whereunder the learned I Addl. District Judge, Mahabubnagar, dismissed the petition filed by the aforesaid petitioners under Order 26 Rule 10(A) CPC r/w Section 45 of Indian Evidence Act, seeking the Court to send the petition mentioned documents for comparison of the signatures found in those documents by the Government Handwriting Expert.

2) Heard Sri Mohd. Vasi Ahmed, learned counsel for petitioners and Sri K.Rama Subba Rao, learned counsel for 1st respondent. Respondents 2 and 3 are not necessary parties vide cause title.

3) SROP No.1/2009 is filed by the respondent No.1—Educational Society seeking declaration that the new office bearers' lists dt.30.06.2005 and 23.12.2005 filed by the 1st respondent in the OP with the Registrar of Society as illegal and void and not according to by-laws and also to declare that the respondents 1 to 10 in the OP are not the office bearers of the society and for permanent injunction restraining respondents 1 to 10 from interfering with the affairs of the society and in the management of the institutions run by it. The grievance of the 1st respondent/petitioner in SROP No.1/2009 is that the said educational

society was constituted on 23.05.2004 for a term of 5 years and as its stint was going to be completed, the 1st respondent, who was its President intended to conduct elections for new election body and so he went to the Societies Registrar's office at Hyderabad on 27.08.2009 to verify the records and there, to his shock and surprise, he found two records showing new body of the society dt.30.06.2005 and 23.12.2005. On obtaining certified copies of the records, he noticed that both the documents were forged ones, wherein the signatures of late N.K.Ranga Rao, the President was forged. Further, the entries in those records were false and list of office bearers shown in the forged record were attested in the name of N.K.Ranga Rao. The 1st respondent in the O.P was attributed to be the man behind the malpractices since he was dismissed from the primary membership of the society by its general body on 30.12.2004 on the ground of his involvement in activities that were inimical to the interest of the society. Thus the society represented by the 1st respondent as its President filed the O.P.No.1/2009, seeking the reliefs mentioned supra.

4) Pending O.P, the 1st respondent filed I.A.No.741/2011 under Section 45 of Indian Evidence Act, seeking to send the petition mentioned documents to Handwriting Expert for verification and opinion, on the ground that the main O.P was filed questioning the authenticity of the petition mentioned documents and the signatures of the office bearers in the disputed list and the corresponding resignation letters, were all forged by the respondents in the O.P. The present

petitioners opposed the said I.A mainly contending that since original documents were summoned from the office of the Registrar of Societies, Musheerabad, Hyderabad (Respondent No.11) those documents can be compared by the Court within its power under Section 73 of Indian Evidence Act. The Trial Court in its elaborate order dated 15.09.2011, allowed the said application by dismissing the objections. However, since some of the documents available in record were the copies, the Trial Court directed the 1st respondent herein to collect all the original documents containing the admitted signatures for comparison.

5) While so, the petitioners/respondents 1, 2, 4 to 10 came up with I.A.No.408/2012 requesting the Court to send the petition mentioned documents for comparison. Their plea is that the respondent No.1 was trying to send the documents of his choice to get undue benefit, though several other admitted signatures are available and therefore, if the petition mentioned documents were not referred to expert, prejudice would be caused to them. The 1st respondent/petitioner opposed the said petition. The Trial Court dismissed I.A.No.408/2012 by its impugned order holding that the documents sought to be sent by the petitioners do not have any relevance to the subject matter involved in the main O.P as the main issue involved in the O.P is whether the two lists of office bearers dt.30.06.2005 and 23.12.2005 contain forged signatures of the office bearers and thereby those lists are illegal and void, whereas the petition mentioned documents relate to much prior to the alleged new body list dt.30.06.2005 and 23.12.2005. The Trial Court further observed

that the petitioners are seeking for comparison of the signatures of B.Janardhan, B.Damodar and M.Narayan Reddy, who had already resigned from their respective post and have nothing to do with the issue involved in the main O.P. The Trial Court also observed that the petition was filed at a stage when both the parties have already adduced their evidence and the case has reached the stage of arguments. On all the aforesaid observations, the Trial Court dismissed the petition.

6) Now the contention of petitioners in vehemence is that the Trial Court has not properly appreciated the purpose of the petition mentioned documents. The 1st respondent selectively referred only certain documents to get undue advantage. PW.1 admitted in his cross-examination that there are some more documents, which contain the admitted signatures and therefore, sending of those documents also is essential.

7) This Court is unable to accept the above arguments of the petitioners counsel. The crux of the case is whether the two lists dt.30.06.2005 and 23.12.2005 showing the list of office bearers contain forged signatures or not. In that regard, the Trial Court allowed I.A.No.741/2011 permitting the 1st respondent/petitioner to refer certain documents mentioned in that petition to the Government Handwriting Expert for comparison. The petitioners then filed I.A.No.408/2012 stating that the petition mentioned documents shall also be referred for comparison of the signatures in those documents. The contention in the affidavit filed in I.A.No.408/2012 is that PW.1 in his evidence clearly

admitted that certain signatures are originals but they were not referred to Handwriting Expert for comparison and therefore, prejudice would be caused to the petitioners if they are not referred to Expert. Even though such a plea was taken, the petitioners have not established as to which of the signatures contained in the petition mentioned lists were admitted by PW.1 in his evidence as claimed by them. Without such clarification, the documents cannot be referred to. On the other hand, PW.1 in his cross-examination has categorically stated that out of the record summoned from the Registrar of Societies, except the lists dt.30.06.2005 & 23.12.2005 and the corresponding resolutions, the rest of the record is genuine. PW.1 ofcourse admitted the signatures on Ex.B.5—document dt.02.06.2005. Again when the contents of the said documents were shown, he denied the document. So from the evidence of PW.1, it cannot be stated that he admitted the signatures of any particular documents mentioned in I.A.No.408/2012. Therefore, the petitioners failed to establish the relevancy of the petition mentioned documents to refer them to the Expert. Added to it, as rightly observed by the Trial Court, the petitioners sought for comparison of the signatures of Mr. B.Janardhan, B.Damodar and M.Narayana Reddy, who had already resigned from their respective posts and have had nothing to do with the primary issue involved in the O.P. Further, the petition mentioned documents were all prior to the alleged new body lists dt.30.06.2005 and 23.12.2005 and therefore, petitioner failed to establish their relevancy in that context also.

8) So at the outset, the impugned order does not suffer from the vice of perversity or illegality and therefore, I find no merits in the CRP.

9) In the result, this CRP is dismissed. No costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 13.06.2018

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