

HON' BLE SRI JUSTICE SURESH KUMAR KAIT

C.R.P.Nos. 533 and 545 of 2018

COMMON ORDER:-

Inasmuch as the question of fact and law and the parties in the two Civil Revision Petitions are one and the same, these matters are taken up together for disposal by this Common Order.

While C.R.P.No. 533 of 2018 is filed assailing the order dated 20.12.2017 in I.A.No. 2074 of 2015 in O.S.No. 94 of 2013, the other C.R.P.No. 545 of 2018 is filed challenging the order dated 20.12.2017 in I.A.No. 2073 of 2015 in O.S.No. 94 of 2013 passed by the learned Senior Civil Judge, Mangalagiri, whereby, both the interlocutory applications are allowed.

The learned counsel for the petitioner-plaintiff submits that Ex.B1 – stamp paper was purchased in the name of one Dhanalakshmi on 18.04.2013 i.e. prior to filing the suit, as such, it is a suspicious/forged document, however, the learned Judge ought not to have allowed the petition filed by the respondent-defendant as the same is not maintainable.

The case of the respondent-defendant is that himself and the petitioner-plaintiff compromised the matter out of Court in respect of suit amount. By virtue of the compromise, on 26.05.2013, the respondent-defendant paid an amount of Rs.3,50,000/- to the petitioner-plaintiff, who received the

amount and executed Ex.B1 - Deed of confirmation of the compromise on Rs.100/- stamped paper by signing as well as scribing his thumb impression on the stamped paper wherein the plaintiff clearly acknowledged receipt of the amount of Rs.3,50,000/- from the respondent-defendant. The confirmation deed reveals terms of settlement / compromise. The respondent-defendant, in order to prove his defence, got marked Compromise Deed as Ex.B1 which reflects the pleadings and the alleged signature and thumb impression of the plaintiff and the document is said to have been executed by the plaintiff compromising the suit pending before the trial Court, but the plaintiff denied the very execution of the document in his counter and in the cross-examination of DW1 as well. Since the document is filed by the respondent-defendant, the entire burden lies on him to prove that the document is executed by the petitioner-plaintiff. The respondent-defendant also examined attestors of Ex.B1 as DWs.2 and 3. Since the petitioner-plaintiff denied his signatures on Ex.B1, therefore sending the document with the standard signatures and the thumb impression of the petitioner-plaintiff to be obtained in the open Court Hall to the expert for comparison would not cause any prejudice to the rights and contentions of the plaintiff in the main suit,

and that too, the respondent-defendant will not be deprived of his right of proving his defence.

In view of the facts recorded above, I find no illegality and perversity in the impugned orders dated 20.12.2017 in I.A.Nos. 2074 and 2073 of 2015 in O.S.No. 94 of 2013 respectively passed by the learned Senior Civil Judge, Mangalagiri.

Hence, the Civil Revision Petitions are devoid of merit and the same are accordingly dismissed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

16.02.2018

bcj

SURESH KUMAR KAIT, J

