

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.No.895 of 2018

ORDER:

The defendant in O.S.No.414 of 2013 on the file of the Court of the II-Additional Senior Civil Judge, Nandyal, Kurnool District, is the petitioner in the present revision filed under Article 227 of the Constitution of India.

2. The respondent herein instituted the above said suit for recovery of money on the basis of promissory notes. When the suit stood posted for adducing further evidence on behalf of the defendant, the petitioner/defendant filed the present I.A.No.799 of 2017, under Section 45 of the Evidence Act, praying the Court to re-send Exs.A.1 Promissory Note dated 17.12.2010 along with the admitted signatures on the documents i.e., S.3 to S.15, to the Government Handwriting Expert, Hyderabad, for the purpose of obtaining opinion and report.

3. The said application was resisted by the respondent-plaintiff by filing a counter.

4. The learned II-Additional Senior Civil Judge, Nandyal, by way of an Order, dated 23.01.2018, dismissed I.A.No.799 of 2017. This revision calls in question the validity and the legal sustainability of the said order passed by the learned Senior Civil Judge.

5. Heard Sri G.Sravan Kumar, learned Counsel for the petitioner and Sri V.R.Reddy Kovvuri, learned Counsel for the respondent.

6. According to the learned Counsel for the petitioner, the order impugned in the present revision is erroneous and contrary to law and is opposed to the very spirit and object of Section 45 of the Evidence Act. It

is further submitted by the learned Counsel that had the contents of the affidavit filed in support of the present revision been considered in proper perspective, the order impugned would not have emanated. It is further argued by the learned Counsel that in the event of allowing the application, there can be a reasonable and just conclusion by the Court below, while disposing of the suit. It is also the submission of the learned Counsel that the expert sent the report without expressing any opinion with regard to S.3 to S.15 without considering the documents.

7. On the other hand, it is submitted by the learned Counsel for the respondent that there is no infirmity in the impugned order, as such, the same does not require any judicial review under Article 227 of the Constitution of India. It is further submitted by the learned Counsel that only after assigning valid and cogent reasons, the learned Judge dismissed the application.

8. The information available before this Court discloses that during the course of trial, while examining himself as PW.1, the plaintiff examined PW.2 also on his behalf and the defendant examined himself as DW.1. Earlier, the petitioner herein filed I.A.No.381 of 2016 to send Exs.A.1 and A.2-promissory notes along with his admitted signatures. Exs.A.1 and A.2 were sent for expert opinion and the expert rendered his opinion with regard to Exs.A.1 and A.2-promissory notes. It is very much clear from the reading of the impugned order that the learned Judge while rejecting the present application filed by the petitioner herein assigned cogent and convincing reasons and also observed that there is no possibility for comparison of the writings, as the signatures in S.3 to S.15 appear to be sophisticated and appear to be as 'initials' rather than 'signatures'. The Court below also found that the writings on S.3 to S.15 were all subsequent

to the transactions in Exs.A.1 and A.2. The learned Judge also took note of the opinion rendered by the Expert that there was no possibility of comparing the writings of questioned signatures with that of S.3 to S.15. It is a settled and well established principle of law that unless the order impugned suffers from jurisdictional error and patent perversity, the invocation of the jurisdiction of this Court under Article 227 of the Constitution of India is impermissible. This Court does not find any such jurisdictional error in the revision.

9. Accordingly, the Civil Revision Petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending in the revision petition, shall stand closed. No costs.

Date:29.06.2018

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A.V.SESHA SAI,J



THE HON'BLE SRI JUSTICE A.V.SESHA SAI



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Dated: 29.06.2018

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