

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.1236 of 2018

ORDER:

This civil revision petition, under Article 227 of the Constitution of India, by the unsuccessful petitioners/defendants, is directed against the order, dated 09.01.2018, of the learned Senior Civil Judge, Miryalaguda, Nalgonda District, passed in I.A.No.1061 of 2017 in O.S.No.8 of 2010.

2. I have heard the submissions of Sri *M.V.Hanumantha Rao*, learned counsel appearing for the revision petitioners/defendants. I have perused the material record.

3. As this Court is inclined to dispose of this revision petition at the stage of admission, there is no need to order notice to the respondent/plaintiff.

4. As per the submissions made and the content of the material record, the facts, which are necessary for disposal of this revision petition, in brief, are as follows:

The plaintiff brought a suit for specific performance of a contract of sale, dated 10.10.2007. The defendants are resisting the said suit. During the progress of trial in the suit, the defendants earlier filed an application for sending the disputed document and other documents to an expert for comparison of the disputed signatures on the disputed document with the other signatures on the other documents available with the Court and furnishing an opinion along with the report of the expert. The said application was allowed and the necessary documents were sent to the Forensic Science Laboratory, Hyderabad, for furnishing a report with the

opinion of the expert as desired. However, it appears that the expert returned the material papers to the Court in November, 2017, with a request to send a document of a contemporaneous period i.e., of the year 2007, containing admitted signatures for furnishing an opinion. Thereafter, the instant application was filed requesting to send the documents to a private laboratory, viz., Truth Labs, for furnishing an opinion as to the genuineness or otherwise of the disputed signatures after comparing the same with the signatures said to be admitted and available on the documents produced by the Branch Manager, Andhra Bank, Miryalguda, and the Branch Manager, Life Insurance Corporation of India, Miryalguda. On merits and by the orders impugned in this revision, the trial Court dismissed the said petition *inter alia* observing that no purpose would be served if the documents are sent to Truth Labs for furnishing an opinion of the expert of the said lab and that the expert opinion being a weak piece of evidence and not a substantive piece of evidence, there are no *bona fide* grounds to allow the petition. Aggrieved thereof, the defendants preferred this revision *inter alia* contending that the signature on the contract of sale is denied and that to substantiate the case of the defendants, it is essential to seek an opinion of the expert as to the genuineness or otherwise of the disputed signatures and that the trial Court, having once considered the request and sent the documents to a Government Expert, ought to have considered the subsequent request for the same relief, as the Government Expert expressed inability to furnish opinion and as it is possible to obtain an opinion from a private expert of Truth Labs with the available material.

5. I have given earnest consideration to the facts and submissions. The request made in the present application is to send the documents said to be containing admitted signatures and the document with the disputed signatures to an expert of a private laboratory for comparing the disputed signatures on the disputed document with the signatures said to be admitted on the other documents, viz., the documents produced by the Branch Manager, Andhra Bank, Miryalguda, and the Branch Manager, Life Insurance Corporation of India, Miryalguda. Earlier an expert of the Government laboratory requested the trial Court to furnish a document containing the admitted signatures of the concerned, if any, of a period contemporaneous to the period of the disputed document. If the case of the petitioners is that the above documents now produced are containing signatures said to be of the concerned and that they are of sufficient standard for comparison with the disputed signatures on the disputed document, the petitioners ought to have requested the trial Court to send all such documents to the same Government expert of State Forensic Science Laboratory, if they so desired and are so advised. Instead, the petitioners filed the petition making a request to send the documents to a private laboratory without assigning any reasons much less valid reasons. In that view of the matter, this Court is of the considered view that the trial Court is justified in rejecting the request of the petitioners/defendants.

6. In the result, the Civil Revision Petition is dismissed, however, reserving liberty to the petitioners/defendants to file an appropriate

application before the trial Court, if they so desire and if they are so advised. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

M.SEETHARAMA MURTI, J

Date: 28th February, 2018
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