

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.1228 of 2018

ORDER:

Petitioner/defendant asserts that respondent/plaintiff filed O.S.No.11 of 2013 in the Court of II Additional District Judge, Hindupur, against her for specific performance of agreement to sell, dated 24.12.2010, and in the said suit, she filed written statement with a plea that she neither received a sum of Rs.4,00,000/- and Rs.5,00,000/- on 17.03.2011 and 20.04.2011 respectively, nor made endorsements on the said agreement to sell. She also asserts that the respondent/plaintiff in the chief-examination affidavit stated that on 17.03.2011 and 20.04.2011, a sum of Rs.4,00,000/- and Rs.5,00,000/- respectively, was paid to her and she made endorsements to that effect on the said agreement to sell, Ex.A.1, and that the said endorsements were marked as Exs.A.2 and A.3 and that in the cross-examination, it was elicited that Ex.A.5 - reply notice was sent by her specifically denying the receipt of Rs.4,00,000/- and Rs.5,00,000/- from the respondent/plaintiff. In the circumstances, she filed I.A.No.148 of 2016 in the said suit seeking to send Exs.A.2 and A.3, signatures on Ex.A.1, to the handwriting expert for opinion, by invoking Section 45 of the Indian Evidence Act,

1872. The Court below by merely stating that opinion of the handwriting expert is nothing but an opinion and it is a weak piece of evidence, dismissed the said I.A. vide order, dated 04.01.2018. Hence, she filed the present Civil Revision Petition.

It is to be noted that when there is specific denial by the petitioner/defendant as to her receipt of money from the respondent/plaintiff by endorsements, Exs.A.2 and A.3, on Ex.A.1, when the Court is not an expert to compare the disputed signatures with the admitted signatures so as to come to a definite conclusion that the signatures are forged, the next best available option would be to send the disputed and admitted signatures to the expert for comparison and opinion. The science of identification of handwriting has developed much over all these years and that being the best for exact opinion. Therefore, benefit of the same cannot be denied to the petitioner/defendant to substantiate her case.

Learned counsel for the respondent does not object to it.

In those circumstances, the Civil Revision Petition is allowed with the direction to the Court below to send Exs.A.2 and A.3, signatures on Ex.A.1, along with the admitted signatures

of the petitioner/defendant to the Forensic Science Laboratory/Truth Lab, for comparison and opinion. Inasmuch as the suit is of 2013, the petitioner shall forthwith approach the Court below for submitting her admitted signatures so as to enable it to take appropriate steps. It is needless to mention that the petitioner shall bear all the costs in this context.

Miscellaneous Petitions, if any pending shall stand disposed of. There shall be no order as to costs.

20th APRIL, 2018.

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CHALLA KODANDA RAM, J

