

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.3016 of 2016

ORDER:

This civil revision petition is filed by the defendant under Article 227 of the Constitution of India, assailing the order dated 27.4.2016 passed in I.A.No.149 of 2016 in O.S. No.1213 of 2013 on the file of the Court of I Additional Senior Civil Judge, Vijayawada.

2. Heard the learned counsel for both the parties.

3. The respondent filed O.S. No.1213 of 2013 on the file of the Court of I Additional Senior Civil Judge, Vijayawada, against the petitioner, for recovery of the suit amount, basing on the promissory note dated 02.10.2011. After completion of the evidence on both the sides, the petitioner filed the present petition under Section 45 of the Indian Evidence Act, to send the suit promissory along with his admitted signatures to the Expert for comparison. The trial Court, after considering the material available on record, arrived at a conclusion that the petitioner has not made out the case and consequently dismissed the petition. Hence the revision.

4. A perusal of the record reveals that the suit was filed in the year 2013. The petitioner did not choose to file the petition under Section 45 of the Indian Evidence Act, till completion of the evidence on both sides. The record further reveals that when the trial Court posted the matter for Judgment, the petitioner filed three petitions: (1) to reopen the matter, (2) to receive the

documents, and (3) present petition to send Ex.A.1-suit promissory note to the Expert. The trial Court allowed the first two petitions, and dismissed the present petition.

5. It is a settled principle of law that a party to the suit, who seeks to send a disputed document to the Expert for comparison of the signature thereon, ought to have filed contemporary authenticated documents containing the signature of that person. In the instant case, the petitioner requested the trial Court to send Ex.A.1-promissory note along with his signature on the vakalat, written statement and the signatures to be taken in the open Court. In this type of cases, the possibility of changing the style of signature by a party to the proceedings, after filing of the suit, in order to safeguard his interest, cannot be ruled out completely. The petitioner did not choose to file authenticated contemporary documents before the trial Court. Without filing contemporary documents, no purpose will be served by sending Ex.A.1-promissory note to the Expert for comparison of the signature on it with the signatures of the petitioner on the vakalat and written statement. The trial Court, in paragraph Nos.12 and 13 of the impugned order, gave a specific finding that no purpose will be served by sending Ex.A.1-promissory note along with the signatures of the petitioner on the vakalat and written statement to the Expert. It is needless to say that Expert opinion is not a substantial piece of evidence. The trial Court has assigned reasons much less cogent and valid reasons to its findings. I am fully endorsing the findings recorded by the trial Court. There is no

illegality, irregularity and impropriety in the impugned order, which warrants interference of this Court while exercising jurisdiction under Article 227 of the Constitution of India.

6. Accordingly, the civil revision petition is dismissed. Miscellaneous petitions, if any pending in this revision shall stand closed.

T.SUNIL CHOWDARY, J

Date: 28.11.2018
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