

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.2609 of 2015

ORDER:

Heard both sides and perused the grounds of revision and the impugned order of the lower Court dated 10.06.2015 in I.A.No.342 of 2014 in the pending suit O.S.No.581 of 2011. From the contest between the parties, plaintiffs rely upon the so called unregistered will dated 20.11.2010 and the defendants rely upon the earlier so called registered will dated 17.01.2003, both the wills are said to have been executed by the so called testator Maganti Krishna Rao. In disputing the very will dated 20.11.2010 running in 5 pages with signatures on 5 pages and thumb impression on the last page of so called testator. The defendant Nos.1 & 2 sought for sending in I.A.No.123 of 2012 said 2 wills to the handwriting expert for comparison of the signatures of the said Krishna Rao and his wife Papayamma, opinion was received and the opinion of the "Truth Laboratory" private handwriting and scientific expert entity that the signatures in the pages 1 to 4 could be identified in giving opinion by comparison with the signatures on the registered will dated 17.01.2003, but not with reference to signature on the last page No.5. It is subsequently the defendant Nos.1 & 2 filed the present petition before the lower Court to send the said will again for comparison of the thumb impression of the deceased on page No.5 of the will dated 20.11.2010 relied upon by the plaintiffs with the ultimate impression on the registered will dated 17.01.2003. That was ended in dismissal by the impugned order

of the lower Court, which is the subject matter of the present revision.

A perusal of the grounds of revision vis-à-vis the oral contest of the learned counsel for the revision petitioners that the lower Court erred in simply saying the petition is meant for drag on the proceedings without understanding the purport of the relief sought for despite the fact admitted also in Para 8 in the impugned order referring to the settled expressions of the Apex Court in **Muralilal Vs. State of Madhya Pradesh**¹ fingerprint science is the exact science to form a clear opinion from comparison of the so called thumb impression in dispute. Whereas it is the submission of the learned counsel for the revision contesting respondents/plaintiffs that the impugned order of the lower Court no way requires interference and the suit is of the year 2011 and defendant Nos.1 & 2 asked for comparison of the thumb impression at best earlier having filed I.A.No.123 of 2012 which is only to drag the proceedings with no purpose.

It is not a case of no admitted thumb impressions available to compare with the disputed thumb impression of the so called testator Krishna Rao. Once such is the case and once it is a perfect science and the so called comparison of handwriting still a developed science could have been permitted to send the thumb impressions available and the disputed thumb impressions of the page No.5 of the will dated 20.11.2010 with the thumb impressions available on the original will registered dated 17.01.2003 and other admitted thumb impressions if any of the

¹ AIR 1980 SC 531

testator available to be submitted by both parties, if any, within one week from the date of receipt of this order and it is for the defendant Nos.1 & 2 to bear said expenditure of the expert so that the Court can therefrom to proceed further with the matter.

Accordingly and in the result, the Civil Revision Petition is allowed by setting aside the impugned order of the lower Court.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 02.01.2018
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