

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.2815 of 2018

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the orders dated 12.04.2018 passed in I.A.No.130 of 2018 in O.S.No.4 of 2017 on the file of Senior Civil Judge Court, Atmakur, Kurnool District.

2. Heard the learned counsel appearing for both the parties and perused the material available on record.

3. The point that arises for consideration is:

“Whether there is any illegality, irregularity or impropriety in the impugned order?”

4. A perusal of the record reveals that the petitioner filed O.S.No.4 of 2017 against the respondents for recovery of an amount of Rs.8,02,916/- basing on the promissory note. The respondents filed written statement *inter alia* contending that the suit promissory note is a forged one. During pendency of the suit, the petitioner filed a petition under Section 45 of the Indian Evidence Act to send the disputed signatures on the promissory note along with the admitted signatures to the expert for comparison. The trial Court allowed the petition. The expert submitted his report. Again the petitioner filed the present petition under Section 45 of the Indian Evidence Act to send the disputed signatures on the promissory note along with the admitted signatures to the second expert. The trial Court after considering

the material available on record, dismissed the petition. Hence, the revision.

5. It is not in dispute at the instance of the petitioner-plaintiff, the trial Court send the disputed signatures on the promissory note with the admitted signatures for comparison. It appears, the report came against the petitioner. For one reason or the other, the petitioner did not choose to examine the expert in order to ascertain the truthfulness or otherwise of the opinion expressed by him. Without examining the expert, again the petitioner filed another application to send the signature on the promissory note along with admitted signatures, to another expert for comparison. The trial Court at Para 14 of the impugned order made an observation that the petitioner can examine the expert in order to establish his opinion is not on correct lines. If the petitioner is able to prove that the opinion given by the expert is not on correct lines, then only he can resort to appropriate remedy. Without examining the expert, the petitioner is not entitled to file another application for the same relief. The possibility of filing of this type of petitions with an ulterior motive to drag on the matter cannot be ruled out completely. It is needless to say the opinion given by an expert 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 with the findings recorded by the trial Court. There is no illegality, irregularity or impropriety in the orders of the trial Court warranting interference of this Court, while exercising the jurisdiction under Article 227 of the Constitution of India. Hence, the petition is liable to be dismissed.

6. In the result, the Civil Revision Petition is dismissed. There is no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

Dt:13.12.2018

Rns

