

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.1921 of 2017

ORDER:

This Civil Revision Petition is filed aggrieved by the order dated 04.11.2016 in I.A.No.473 of 2016 in O.S.No.24 of 2016 on the file of I Additional Junior Civil Judge, Rangareddy District at L.B.Nagar by the sole defendant against the sole plaintiff-revision respondent.

2. The respondent-plaintiff filed the suit for perpetual injunction restraining the defendant and his men from evicting the plaintiff over the suit schedule property during the subsistence of lease. While the matter is coming for trial, the defendant filed I.A.No.473 of 2016, under Section 45 of the Indian Evidence Act, to send the Rental Agreement, dated 19.09.2014, to the Handwriting Expert to verify the genuinity of the signatures on the said document with the original admitted signatures of the plaintiff on Sale Deed, dated 30.03.2013, registered before the Office of Sub-Registrar, Uppal, executed by the plaintiff.

3. Opposing the same the plaintiff filed counter by contending that he is the Managing Partner of the plaintiff and that he is running business in the suit schedule premises from 19.09.2014 and paying rents and the defendant is not in the habit of issuing rent receipts and that the defendant filed the

petition to blackmail the plaintiff and ultimately, prayed the Court to dismiss the petition.

4. After hearing both sides, the Court below dismissed the said interlocutory application vide order dated 04.11.2016. Aggrieved of the same, the defendant filed the present Civil Revision Petition.

5. Learned counsel for the petitioner-defendant submits that the impugned order of the Court below is erroneous, unjust and unsustainable and that the Court below is grossly erred in holding that 'Whether the document is fabricated or forged is not the issue for adjudication' and also erred in holding that the signature on the Rental Agreement is not relevant for adjudication and ultimately, prayed the Court to allow the Civil Revision Petition by setting aside the order of Court below; whereas it is the submission of learned counsel for the respondent that the impugned order no way requires interference by sitting in revision since supported by reasons.

6. Heard both sides and perused the impugned order.

7. The suit is of the year January 2016 and by the time the petition is filed to send the document in question to the Handwriting Expert, the trial is not commenced. What the lower Court observed is from its perusal the signatures on the

Rental Agreement and the Sale Deed are different to a naked eye, for which it is the submission of learned counsel for the plaintiff including in the counter in opposing the petition that the defendant purposefully signed differently to suit his convenience. Coming to the further finding of the trial Court therefrom the suit rental agreement is a forged one or not is not the issue in the suit for injunction and having regard to the above there is nothing to allow the petition.

8. Undisputedly, the lower Court found there is difference between the Sale Deed signature and the suit lease agreement signature in dispute. The Court is not an expert in handwriting even for its coming to a sole conclusion within the scope of Section 73 of the Evidence Act. From such perusal and comparison, without taking assistance of the Handwriting Expert, leave about the opinion of Handwriting Expert is a developing science otherwise not conclusive.

9. Coming to the aspect at which stage of the proceedings the seeking of sending of signature to the Handwriting Expert or Finger Print Expert can be, it is held by the full bench of this Court in the case of *Bande Siva Shankara Srinivasa Prasad Vs. Ravi Surya Prakash Babu (died)* per L.Rs.¹ referring to earlier Division Bench judgment in *Janachaitanya*

¹ 2016 (2) ALT 248

Housing Limited v. Divya Financiers² that the opinion of the Handwriting Expert can be solicited to determine the disputed signatures by comparison with available signatures and it is difficult to say at which stage such a recourse can be had in the civil matter, but for depending upon the facts and circumstances of each case if at all the contemporary relevancy of signatures available well and good and even not available for there is no time limit, that is not the sole determining factor of not to send.

Having regard to the above, the dismissal of I.A.No.473 of 2016 by lower Court is unsustainable and accordingly, the same is set aside by allowing I.A.No.473 of 2016 before the lower Court by directing the petitioner-defendant to deposit Rs.10,000/- (Rupees ten thousand only) before the lower Court, within one (1) week from the date of receipt of a copy of the order, for the lower Court to send the disputed signature document with the admitted signature on the document by also obtaining the specimen signature of the plaintiff, including with any other admitted signature like deposition of the plaintiff recorded in the open Court, to the Handwriting Expert for comparison and opinion so as to proceed with the suit.

² 2008 (3) ALT 409

Accordingly, the Civil Revision Petition is allowed.
Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

20.02.2018
MVA

