

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.4856 of 2017

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the orders dated 07.08.2017 passed in I.A.No.480 of 2017 in O.S.No.173 of 2010 on the file of Principal Junior Civil Judge Court, Gurazala, Guntur District.

2. Heard the learned counsel appearing for both the parties.

3. The facts leading to filing of the present revision in brief, are as follows:

After completion of evidence on both sides, the petitioner filed a petition under Section 45 of the Indian Evidence Act to send Ex.A1 along with the signatures of the petitioner on vakalat and written statement in O.S.No.173 of 2010 to the expert for comparison. The respondent filed counter *inter alia* contending that the petition is filed with an intention to drag on the matter. The trial Court after affording a reasonable opportunity to both parties, dismissed the petition. Hence, the revision.

4. The point that arises for consideration is:

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

5. The respondent filed O.S.No.173 of 2010 against the petitioner for specific performance of agreement of sale dated 20.08.2010. On behalf of the respondent, P.Ws.1 to 3 were

examined. On behalf of the petitioner, D.Ws.1 and 2 were examined. P.W.2 is the scribe and P.W.3 is the attester of Ex.A1 agreement of sale. The petitioner filed written statement way back in the year 2010 taking a specific plea that Ex.A1 agreement of sale does not bear his signature.

6. Before commencement of the trial itself, the petitioner is aware of the stand taken by him. The petitioner ought to have filed the petition under Section 45 of the Indian Evidence Act as early as possible, preferably, before commencement of trial or at least after completion of respondent side evidence. For the reasons best known, the petitioner did not choose to file the present petition till completion of evidence on both sides. The petitioner filed the petition praying the trial Court to send the disputed signature on Ex.A1 with the admitted signatures of the petitioner on the vakalat and written statement in O.S.No.173 of 2010. It is a known fact that a person who seeks to send the disputed document to the expert has to file the contemporaneous authenticated document for the purpose of comparison. For the reasons best known, the petitioner did not choose to file the authenticated document before the trial Court, to send the same along with Ex.A1 to the expert for comparison.

7. As rightly pointed out by the trial Court, the petitioner has not chosen to file the petition for a period of six years. The petitioner filed the present petition at the stage of arguments. As rightly pointed out by the learned counsel for the respondent, the

possibility of filing of this type of petitions at the time of arguments in order to protract the proceedings as far as possible cannot be ruled out completely. It is a known fact that an expert opinion is not a substantive piece of evidence. Even if Ex.A1 is sent along with the admitted signatures of the petitioner on vakalat and written statement in O.S.No.173 of 2010, no purpose will be served. The trial Court has considered the material available on record in right perspective and dismissed the petition. 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.

8. 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:03.12.2018

Rns