

THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

CIVIL REVISION PETITION NO.3627 OF 2018

ORDER:

The plaintiff-petitioner, is aggrieved by the order dated 01.03.2018, passed by the XI Junior Civil Judge, City Civil Court, Secunderabad, whereby the Learned Judge has accepted the application filed under Section 45 of the Indian Evidence Act read with Section 151 CPC, filed by the defendant-respondent and has directed that the specimen signature of the petitioner should be collected, the admitted signatures of the petitioner on the vakalat, and the written statement shall be enclosed with the *Oppanda Patram* (Ex.B-5) and the same shall be sent to the Director, F.S.L, Hand Writing Expert, Ramantapur, Hyderabad for comparison.

Briefly stated the facts of the case are that the plaintiff-petitioner had filed a suit for eviction of the respondent-defendant from the petition suit property ('PSP', for short). However, the respondent had clearly claimed that the petitioner and he are brothers. He had further claimed that he is residing in the PSP as both the brothers had entered into *Oppanda Patram* (Ex.B-5). According to the respondent, both the brothers had incurred expenditure for the construction of the house. However, taking advantage of the sale deed in his favour, the petitioner is denying the possession of the respondent. He further submitted that the PSP was originally purchased by their late father, A. Mallaiah. However, as the petitioner was the elder of the two brothers, the property was purchased in the petitioner's name. Furthermore, the petitioner had denied his signatures on the *Oppanda Patram*

(Ex.B-5). But during the course of his cross-examination, he had agreed that he has no objection if the *Oppanda Patram* (Ex.B-5) were sent for experts opinion. Hence, the *Oppanda Patram* (Ex.B-5), should be sent for expert opinion.

Subsequently, the respondent filed an application under Section 45 of the Evidence Act, for seeking an expert opinion with regard to the signature of the petitioner, which the petitioner had denied in his testimony. After hearing both parties, the learned court had directed that the *Oppanda Patram* (Ex.B-5) along with the admitted signature of the petitioner, in his vakalat, and in his written statement, should be sent to the FSL. Hence, this petition before this court.

Mr. K. Anoop Kumar, the learned counsel for the petitioner, has vehemently contended that, in fact, the *Oppanda Patram* (Ex.B-5) has never seen the light of the day. It is a document which is clearly unrelated to the dispute involved in the list. Secondly, the learned court has not specified as to which vakalat is to be sent along with the document. Therefore, the impugned order deserves to be set aside by this Court.

On the other hand, Mr. Manthripragada Venkata Hanumantharao, the learned counsel for the respondent, submits that the case of the respondent-defendant is based squarely on the *Oppanda Patram* (Ex.B-5). Since the petitioner has denied his signature on the said document, it is imperative that the genuineness of his signature on the document should be verified by referring the documents to an expert for his opinion. Therefore, the learned counsel for the petitioner is unjustified in claiming that

the document is irrelevant to the issue in controversy. Secondly, the learned court has clearly directed that the admitted signature of the respondent-plaintiff (the petitioner) before this court on vakalat should be sent along with the disputed document to the FSL. Therefore, the learned counsel has supported the impugned order.

It is, indeed, trite to state that the primary duty of a court is to discover the truth. In case a signature is denied and claimed to be forged, it is the primary duty of the trial court to discover whether the signature is an authentic or forged one after referring the document to an expert for its opinion. In the present case, while the respondent-defendant has relied on the *Oppanda Patram* (Ex.B-5) in order to assert his right to continue to stay in the suit premises, the petitioner has denied the genuineness of his signature on the said document. Thus, the learned trial court is justified in sending the disputed document to the FSL for its opinion. Hence, the learned counsel for the petitioner is unjustified in claiming that the disputed document is irrelevant to the issue involved in the case.

The learned counsel for the petitioner is unjustified in claiming that the learned court below is not specified the vakalat, which needs to be sent along with the document in dispute. The learned Judge has clearly directed that the vakalat signed by the petitioner, which contains the admitted signature of the petitioner, should be sent to the FSL, in order to compare the admitted signature, and the alleged signature on the document in dispute.

Therefore, the second contention raised by the learned counsel is clearly unacceptable.

Since it is the petitioner, who denies that the signatures are genuine on the document, since it is he who claims that it is a forged signature, he has nothing to worry about with regard to the opinion of the expert. For, the expert would either report that the signatures are genuine, or forged. In case the expert opinion is that the signatures are forged, it would only help the petitioner in supporting his case.

For the reasons stated above, this court does not find any illegality or perversity in the impugned order. The present petition is devoid of merit. It is, therefore, dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.

(RAGHVENDRA SINGH CHAUHAN, J)

Date: 06.12.2018

MRKR