

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

C.R.P.NO.731 OF 2014

ORDER:-

This revision petition is filed questioning the order, dated 18-02-2014 passed in I.A.No.8 of 2014 in O.S.No.702 of 2009 on the file of the court of I Junior Civil Judge, City Civil Court, Secunderabad.

2. The suit O.S.No.702 of 2009 was filed for permanent injunction by the plaintiff against the defendant who is the revision petitioner herein.

3. I.A.No.8 of 2014 is filed to send Ex.B-33, which is the agreement of sale, dated 29-09-1997, to the handwriting expert for opinion as the plaintiff in the suit who is the respondent herein has denied his signatures thereon. The application was heard in the lower court and the court below allowed the application. The order is impugned in the present revision petition.

4. The learned counsel for the petitioner submits that the respondent herein did not object to the marking of the document and did not state that the signatures thereon do not belong to him. He also submits that on 29-09-1997 apart from Ex.B-33, two other agreements of sale were also executed in favour of the defendant Nos.1 and 2 in the suit.

Therefore, the learned counsel wants all the documents to be sent to an expert for comparison.

5. In reply thereto, the learned counsel for the respondent points out that Ex.B-33 is not a genuine document. The learned counsel also draws the attention of the court to the evidence affidavit of PW.1, wherein in para.11 it is clearly stated that the signatures on the document, dated 29-09-1997 do not belong to him. In fact, the learned counsel points out that there are three sub paras in para.11, wherein it is contended that all the agreements are all created for the purpose of the suit. Even the agreements in favour of defendant Nos.1 and 2 are also expressly denied in the chief examination, more so in para.11. The learned counsel submits that Ex.B-33 alone should be sent for comparison and the other documents which are purportedly executed by defendant Nos.1 and 2 cannot be sent for comparison, as they are not a part of the court record.

6. The point now that arises for consideration is:-

Whether the lower court committed any error in the exercise of its jurisdiction?

7. POINT:-

This court, after hearing both the learned counsel, notices that the evidence affidavit of the petitioner is very

clear. It clearly shows that he not only denied Ex.B-33, but has expressly denied the other two documents also. Therefore, it cannot be said that the agreement of sale in favour of defendant Nos.1 and 2 contained the “admitted signatures” of the plaintiff in the suit to be sent for comparison by an expert. There is sufficient force in the submission made by the learned counsel for the respondent.

8. This court also notices that the court below has taken the necessary precautions in passing the order. As Ex.B-33 is a document which is marked and is available on the file of the court and as the application is confined only to sending Ex.B-33 to an expert, this court is of the opinion that the lower court did not commit any error in passing the impugned order. The court directed that Ex.B-33 should be sent along with admitted signatures for comparison. This court finds no merits in the revision petition and the same is be dismissed.

9. As the suit is of the year 2009, the lower court is directed to proceed with the trial of the matter immediately after receipt of the opinion from the expert. The lower court is also directed to instruct the expert to give his report in a time bound manner. Needless to say that the lower court is

directed to dispose of the matter without being in any way influenced by what is stated herein.

Accordingly, with the above observation/direction, the Civil Revision Petition is dismissed. No costs. The interlocutory applications pending, if any, shall stand closed in consequence.

27-11-2018  
TSNR

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D.V.S.S.SOMAYAJULU,J

