

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.4281 OF 2018

ORDER

The petitioners are the plaintiffs in O.S.No.530 of 2006 on the file of the learned III Additional District Judge, Ranga Reddy District at L.B.Nagar. They filed Tr.O.P.No.77 of 2018 before the learned Principal District Judge, Ranga Reddy District at L.B.Nagar, seeking transfer of the said suit from the file of the learned III Additional District Judge, Ranga Reddy District at L.B.Nagar, to any other Court having jurisdiction. By order dated 12.07.2018, the learned Principal District Judge, Ranga Reddy District at L.B.Nagar, dismissed the Tr.O.P. Aggrieved thereby, they are before this Court.

Taking note of the fact that there was a stay in operation during the pendency of the Tr.O.P., this Court granted interim stay of further proceedings in the suit *vide* order dated 03.08.2018.

The petitioners-plaintiffs appear as parties-in-person. Sri O.Manohar Reddy, learned counsel, entered appearance for the first respondent-first defendant.

Heard.

Parties shall hereinafter be referred to as arrayed in the suit.

O.S.No.530 of 2006 was filed for specific performance of the agreement of sale dated 10.11.2004. According to the plaintiffs, during the course of the suit proceedings, the learned III Additional District Judge showed bias in favour of the first defendant by making statements on the merits of the matter. They claimed that they had lost confidence in the said Presiding Officer and apprehended that they would not get justice. This was the basis for their seeking transfer of the suit. The first

defendant filed a counter contesting the transfer petition. He denied the alleged utterances attributed to the Presiding Officer by the plaintiffs. He pointed out that the plaintiffs had suffered adverse orders at the hands of the Presiding Officer in relation to the expert examination of the signature in the suit agreement of sale and therefore, they filed the Tr.O.P. so as to stall the suit proceedings.

Perusal of the order under revision reflects that the learned Principal District Judge, Ranga Reddy District at L.B.Nagar, found merit in the contention of the first defendant. Noting that the suit was of the year 2006 and required it to be given priority in terms of the instructions of this Court, the learned Principal District Judge found that the Presiding Officer was not at fault for permitting delivery of summons upon the expert witness through the first defendant. Further, as regards examination of the expert witness on 05.02.2018 and the marking of his report as Ex.X1, the learned Principal District Judge noted that stay was granted in the Tr.O.P. only on 06.02.2018 and therefore, there was no error committed by the Presiding Officer in proceeding with the case one day earlier, when there was no stay in operation. Holding so, the learned Principal District Judge held that there was no merit in the allegations made by the plaintiffs and dismissed the Tr.O.P.

Be it noted that the first defendant in the suit filed an application in I.A.No.737 of 2015 in O.S.No.530 of 2006 seeking expert examination of the disputed signature in the suit agreement of sale. He sought comparison of the said signature with his admitted signatures in the vakalat and the written statement. The trial Court allowed the said I.A. but thereupon, the first defendant filed Memos before the trial Court ultimately stating that the disputed signature may be compared with his signature in the registered partnership deed dated 06.08.2004. The same

was permitted by the trial Court by order dated 11.12.2015. Assailing this order, the plaintiffs filed C.R.P.No.3403 of 2016 before this Court. During the pendency of the case, expert opinion report dated 25.01.2016 of M/s.Truth Labs was filed in the suit. The civil revision petition was disposed of, *vide* order dated 16.06.2017, holding that it would be difficult to disturb the order passed by the trial Court as it had been passed with the consent of the parties. Liberty was however given to the plaintiffs to raise objections against the expert opinion report already filed before the trial Court.

At that stage, the first defendant filed I.A.No.583 of 2017 in the suit to reopen his evidence to enable examination of the expert from M/s.Truth Labs, Hyderabad. He also filed I.A.No.584 of 2017 so that the said expert could be summoned to give evidence on his report dated 25.01.2016. The plaintiffs, on the other hand, filed I.A.No.642 of 2017 seeking production of the original registered sale deed bearing Document No.5743 of 2004 dated 15.05.2004 so that it could be sent to the Government Forensic Science Laboratory, Hyderabad, for analysis. They also filed I.A.No.643 of 2017 seeking comparison of the disputed signature in the agreement of sale with the signature in the said original sale deed after its production.

By separate orders dated 08.09.2017, the learned III Additional District Judge, Ranga Reddy District at L.B.Nagar, allowed I.A.Nos.583 and 584 of 2017 filed by the first defendant and dismissed I.A.Nos.642 and 643 of 2017 filed by the plaintiffs. Aggrieved thereby, the plaintiffs filed C.R.P.Nos.5128, 5129, 5197 and 5199 of 2017 before this Court. All four CRPs were dismissed by common order dated 17.11.2017 holding that the attempt of the plaintiffs to seek a second expert examination of the disputed signature in the agreement of sale with another document of

the year 2004, notwithstanding the fact that the earlier examination was also with one such document of the year 2004, did not merit acceptance. This Court left it open to the plaintiffs to put suitable questions to the expert of M/s.Truth Labs in relation to his report. Aggrieved by the dismissal of the CRPs, the plaintiffs approached the Supreme Court by way of Petitions for Special Leave to Appeal (C) Nos.1119-1122 of 2018. By order dated 22.01.2018, the Supreme Court dismissed the Special Leave Petitions. Having suffered this adverse order, the plaintiffs chose to file the subject Tr.O.P. in February, 2018.

The trajectory of events set out *supra* clearly demonstrates that the plaintiffs are not keen on proceeding with the suit on the strength of the report submitted by M/s.Truth Labs, Hyderabad, and having exhausted all their remedies in relation thereto, they filed the petition seeking transfer of the suit.

Though it is stated before this Court by the plaintiffs that the Presiding Officer dismissed all their IAs because of bias, it is clear from what has been stated above that their dismissal was warranted on merits and the same stood confirmed right up to the Supreme Court. This contention therefore does not hold merit.

As regards the so called utterances alleged to have been made by the Presiding Officer on the Bench, Sri O.Manohar Reddy, learned counsel appearing for the first defendant, would vehemently assert that the Presiding Officer never made any utterances disclosing any bias against the plaintiffs. This allegation is not supported by any third party affidavits and the mere *ipse dixit* of the plaintiffs in this regard is wholly insufficient to render a finding in their favour.

On the above analysis, this Court finds that the subject Tr.O.P. was lacking in *bonafides* being a concerted attempt on the part of the plaintiffs

to stall the suit proceedings merely because they had suffered adverse orders at the hands of the Presiding Officer. The order under revision therefore does not brook interference on any count.

The civil revision petition is devoid of merit and is accordingly dismissed. Interim order dated 03.08.2018 shall stand vacated.

Pending miscellaneous petitions, if any, shall also stand dismissed in the light of this final order. No order as to costs.

28th SEPTEMBER, 2018
PGS

SANJAY KUMAR, J

