

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

C.R.P.No.6468 of 2016

ORDER

This revision under Article 227 of the Constitution of India is filed questioning the order dated 16.11.2016 passed in I.A.No.2267 of 2016 in O.S.No.2 of 2015 by the Principal District Judge, Kadapa, declining to refer the disputed signatures on the document sued upon along with the documents bearing admitted signatures, on the ground that there was an error in the report, as the expert did not examine the disputed signatures on Ex.A2, but he examined the signatures on Ex.A1 and that it is purely a mistake in referring the document to the expert and that the trial Court also expressed its satisfaction by placing reliance on the judgment of this Court in **M. Ramesh Babu V. M. Sreedhar**¹.

2. During hearing, the counsel for petitioner reiterated the contentions and requested this Court at least to exercise power under Section 73 of the Indian Evidence Act, 1872 (for short 'the Act).

3. As seen from the material on record, the expert was called upon to examine the questioned signatures and standard signatures on the document sued upon, which was marked as Ex.A2 before the trial Court and that the said document was directed to be referred to the expert along with the document containing standard signatures. But the trial Court, in stead of referring Ex.A2, which contained the disputed signatures to compare them with the standard signatures, has committed error in referring Ex.A1 document. But the questioned

¹ 2009(5) ALD 187 DB

signatures are only found on Ex.A2. Because of mistake in the reference of the document showing Q-1 to Q-7, i.e., questioned signatures, the counsel sought for reference of the questioned signatures and standard signatures to the expert. But the trial Court has rightly clarified the mistake of expert in drafting the report and satisfied about the opinion of expert. However, evidentiary value of expert can be tested with reference to the material available on record and in case the Court concludes that the report of expert is erroneous, still the Court can exercise power under Section 73 of the Act. But such power has to be exercised sparingly in exceptional circumstances. Therefore, the order passed by the trial Court is free from any irregularity warranting interference by this Court. However, it is left open to the trial Court to exercise power under Section 73 of the Act based on the settled principles of law.

4. With the above observation, the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand dismissed.

M. SATYANARAYANA MURTHY, J

12th February, 2018

sj