

**SMT JUSTICE T.RAJANI**

**CIVIL REVISION PETITION No.4789 OF 2018**

**ORDER:**

1. This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the Petitioner – Defendant, challenging the order, dated 01.08.2018, in I.A. No.306 of 2018 in O.S. No.52 of 2012, passed by the learned Junior Civil Judge, Kotabommali, Srikakulam District (for short, 'the trial Court'). By virtue of which, the trial Court dismissed the Petition, which was filed, under Section 45 of the Indian Evidence Act, 1872 (for short, 'the Act'), to send the Ex.A-1 promissory note for expert opinion for comparison of the alleged signature of the petitioner as well as the attesters under Ex.A-1 with their admitted signatures.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent, perused the material on record.

3. Learned counsel for the petitioner submits that the valuable right of proving his case would be defeated, if the petition is dismissed.

4. But, a perusal of the impugned order would show that it was dismissed on two grounds: one is that the Petition was filed at a belated stage and the other is that the admitted signatures of the petitioner were not furnished. As regards furnishing of the admitted signatures of the petitioner, this Court opines that the said lapse would not stop the trial Court from ordering the Petition, as the admitted signatures of the petitioner can be obtained at the time of sending the document for the expert opinion. But, with regard to the belatedness in filing the Petition, this Court does not see any reason to defer with the order of the lower Court, more so, when admittedly no plea of forgery was taken by the petitioner in his written statement filed before the trial Court.

5. Accordingly, with the above observation, the Civil Revision Petition is dismissed, at the stage of admission. No costs.

6. As a sequel, the miscellaneous petitions, if any pending, shall stand dismissed.

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**T. RAJANI, J**

Date: 26.10.2018.  
Dsh



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