

**HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

**CIVIL REVISION PETITION No.4893 OF 2018**

**ORDER :**

This Civil Revision Petition is filed against order dated 31.07.2018 in I.A.No.484 of 2018 in O.S.No.37 of 2016, wherein and whereby the application filed under Section 45 of Evidence Act by the petitioner/defendant for sending Ex.A1 suit promissory note along with the signatures to be taken in the open Court, suit summons, vakalat and written statement to the Handwriting Expert for the purpose of comparison and opinion on the ground that the respondent/plaintiff filed the suit for recovery of the promissory note debt, is dismissed.

Sri S.R.Sanku, learned counsel for the petitioner/defendant submits that even when there are no admitted signatures, still the Court has the duty to send the suit documents to handwriting expert for comparison and that normally the Courts should compare the same, but without considering the said aspect, dismissed the application. He submits that the Court below should have taken recourse under Order 26 Rule 10 (A) of CPC for scientific investigation. In support of his contention, he relied on the judgment reported in **M.Kaliamoorthy v. Dhanuskodi**<sup>1</sup>.

In this case, it is to be seen that the Court below dismissed the application filed by the petitioner on two grounds i.e., firstly there is no admitted signature of the petitioner/defendant and secondly, evidence of respondent/plaintiff and

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<sup>1</sup> 2014 (8) MadLJ 597

petitioner/defendant is closed. The Court below, by relying on the judgments reported in **Bheri Nageswara Rao v. Valluri Veerabhadrarao and another**<sup>2</sup> and **M.A.Sultan Mohammad v. Suleman Babu**<sup>3</sup>, dismissed the application by holding that there are no undisputed signatures of contemporary period of the petitioner/defendant for comparison with Ex.A1 pronote. Moreover, the application is filed after closure of evidence of respondent/plaintiff. Though learned counsel for the petitioner relied on the judgment of High Court of Madras in **M.Kaliamoorthy v. Dhanuskodi (supra)**. But the trial Court relying on the judgments of this Court referred to above in **Bheri Nageswara Rao v. Valluri Veerabhadrarao and another (supra)** and **M.A.Sultan Mohammad v. Suleman Babu (supra)**, dismissed the application holding that since there are no undisputed signatures available for contemporary period.

In **Bheri Nageswara Rao v. Valluri Veerabhadrarao and another (supra)** and **M.A.Sultan Mohammad v. Suleman Babu (supra)**, this Court held that there can be effective comparison and verification of signatures if only another document containing undisputed signature of contemporary period are made available to the Expert and one of the prerequisites for sending the questioned signatures on Ex.A1 to the Handwriting Expert is existence of undisputed signatures. In para 9 of the order passed by the trial Court, it is held as follows:

“9.As per the principle laid down in the above decision, it is not feasible and proper to compare the disputed signatures on Ex.A1 promissory note with the signatures in the vakalath and written statement. In the absence of existence of undisputed signature of the petitioner for the contemporary period, the request of the petitioner to send Ex.A1 suit promissory note to the Handwriting

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<sup>2</sup> 2006 (4) ALT 694

<sup>3</sup> 2006 (4) ALT 634

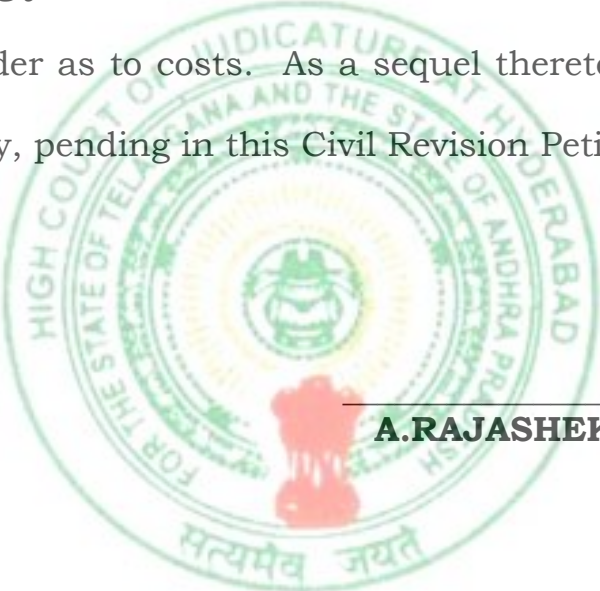
Expert cannot be considered. Therefore there are no bonafide and tenable grounds in this petition.....”

The trial Court passed impugned order by relying on the binding precedents of this Court, as such, no exception can be taken. In view of same, placing reliance on the judgment of Madras High Court is of no avail.

In view of above, this Court is of the opinion that there is no infirmity in the order passed by the Court below, warranting interference by this Court Article 227 of the Constitution of India.

Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand dismissed.

24.08.2018  
kvs



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**A.RAJASHEKER REDDY, J**

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