

**In the High Court of Judicature at Hyderabad
for the State of Telangana and the State of Andhra Pradesh**

Civil Revision Petition No.4936 of 2018

Between:

Sri P. Sadananda Murthy

... Petitioner

and

Sri Pagadala Lokeswar & others

...Respondents

Date of Judgment Pronounced: 24.08.2018

Submitted for Approval:

The Hon'ble Sri Justice CHALLA KODANDA RAM

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1. Whether Reporters of Local newspapers may be allowed to see the judgments ? Yes/No
 2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
 3. Whether His Lordship wish to see the fair copy of the Judgment ? Yes/No

(CHALLA KODANDA RAM)

* The Hon'ble Sri Justice CHALLA KODANDA RAM

+ Civil Revision Petition No. 4936 of 2018

% Dated 24.08.2018

Between:

P. Sadananda Murthy

... Petitioner

and

Pagadala Lokeswar & others

...Respondents

! Counsel for the petitioner: Sri D. Ramakrishna

^ Counsel for respondent :

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>HEAD NOTE:

? Cases cited:



THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 4936 OF 2018

ORDER :

This Revision is directed against the order dated 03.08.2018 in I.A.No. 584 of 2018 in O.S.No. 57 of 2010 on the file of the I Additional District Judge at Anantapuramu.

The petitioner herein is the plaintiff, who filed the suit for specific performance of agreement of sale alleged to have been executed by the 1st defendant, who is no more. Respondents 1 to 11 are legal heirs and other related persons of the 1st defendant. On an earlier occasion, Defendants 3 to 8 filed I.A. No. 1294 of 2017 to send Ex.A15 along with original of Ex.A5 and the service register in respect of the 1st defendant, attested copies of pension proposals to the Forensic Science Laboratory, for its opinion. The said Application was allowed by order dated 18.09.2017. The Forensic Science Laboratory, however, while rendering opinion with respect to hand writing, had not opined as to thumb impression, which is crucial to decide the *lis*. As there is an omission on the part of the Forensic Science Laboratory in complying with the order of the Court, Defendants 3 to 8, once again, had taken out I.A. No. 584 of 2018 to send the finger prints on Ex.A15 along with the original of Ex.A5 and the Service Register in respect of the 1st defendant for obtaining expert opinion about the genuineness of the thumb impression in Ex.A15 and the said Application, *vide* order under Revision, was allowed.

The contention of the learned counsel for the petitioner that filing another Application for the self-same relief is hit by the principles of *res judicata* and the Court below should have given an

opportunity to the petitioner to file a counter does not require any consideration for the simple reason that what all the Court has done is to ensure implementation of its own order passed earlier in I.A.No. 1294 of 2017, as there is an omission on the part of the Forensic Science Laboratory, Hyderabad in rendering the opinion. The Court could have even, by itself, noticed and sent the same to the Laboratory. Merely because the omission was pointed out by the parties to the *lis*, in the interests of justice, and the same was accepted by the Court below, it cannot be said that the Court below has erred in ordering the I.A. Further, the principle of *res judicata* has also no application to the case on hand, as, it is not the contention of the petitioner that the issue was re-adjudicated. As a matter of fact, it would be in the interests of the petitioner/ plaintiff if a definite opinion is obtained with respect to the signature and thumb impression which is crucial for the disposal of the *lis* between the parties i.e. whether there was any agreement of sale executed by the 1st defendant, who is no more, as that would be the best evidence in a matter like this.

For the reasons discussed above, I do not see any reason warranting interference of this Court in the order under Revision and it is accordingly, dismissed. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

24th August 2018

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