

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.4695 of 2016

ORDER:

This Civil Revision Petition is filed, under Article 227 of the Constitution of India, challenging the order, dated 13.07.2016, passed in I.A No.253 of 2016 in O.S.No.402 of 2013 on the file of the Court of Additional Senior Civil Judge, Srikakulam.

2. Heard learned counsel for both parties.

3. A perusal of the record reveals that the respondent filed the suit against the petitioners for recover of money basing on a promissory note. After completion of evidence on both sides, the petitioners filed the petition under Section 45 of the Evidence Act to send Ex.A.1-promissory note along with admitted signatures of defendants to the handwriting expert for comparison and report. The respondent filed counter *inter alia* contending that the petitioners filed the petition only with an intention to drag on the proceedings. The trial Court, after affording reasonable opportunity to both the parties, dismissed the petition. Hence, the revision.

4. The point that arises for consideration in this revision is: Whether there is any illegality, irregularity or impropriety in the impugned order?

5. It is an admitted fact that the respondent filed O.S.No.402 of 2013 on the file of the Court of Additional Senior Civil Judge, Srikakulam, against the petitioners for recovery of suit amount basing on a promissory note, dated 26.02.2013. The petitioners

have earlier filed I.A.No.743 of 2015 under Section 45 of the Indian Evidence Act to send Ex.A.1-promissory note to the handwriting expert for comparison. For one reason or other, the petitioners have not pressed I.A.No.743 of 2015. After completion of evidence on both sides, the trial Court posted the matter for arguments. At that point of time, the petitioners have filed the present petition seeking the same relief as in I.A.No.743 of 2015.

6. A perusal of the record reveals that the petitioners have not filed any document containing their admitted signatures to send the same to the expert for comparison with the disputed signatures on Ex.A.1. The petitioners have not assigned any reason much less cogent and valid reason for not pressing I.A.No.743 of 2015.

7. A perusal of the record reveals that the petitioners have changed the advocates more than four times on one pretext or the other. For the reasons best known, the petitioners did not disclose the dismissal of I.A.No.743 of 2015. All these aspects clearly go to prove that the petitioners are filing the petitions one after the other to drag on the proceedings.

8. It is a settled principle of law that any opinion expressed by the expert is not a substantial piece of evidence. Even if Ex.A.1 promissory note is sent to handwriting expert, no purpose will be served. Another interesting aspect in this case is that the trial Court has not framed the issue whether the suit promissory note is a forged one. In the absence of such an issue, no purpose will be served by sending Ex.A1 to the handwriting expert for comparison. The trial Court considered all these aspects in right perspective and dismissed the petition. I am fully endorsing with the findings

recorded by the trial Court. There is no illegality, irregularity or impropriety in the order of the trial Court warranting interference of this Court while exercising the jurisdiction under Article 227 of the Constitution of India.

9. In the result, the Civil Revision Petition is dismissed. Miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed. There shall be no order as to costs.

T.SUNIL CHOWDARY, J

SEPTEMBER 10, 2018

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Date:10.09.2018