

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.5404 OF 2016

ORDER:

Though notice served, none appeared on behalf of the respondent.

The present Civil Revision Petition under Article 227 of the Constitution of India is filed challenging the docket order dated 09.09.2016 in I.A.No.509 of 2016 in O.S.No.115 of 2014 passed by the Senior Civil Judge, Bapatla

The petitioner filed petition under Section 45 of the Evidence Act and Section 151 C.P.C. to send disputed signature on Ex.A.1 promissory note and admitted signatures of Mangamuri Madhu Babu on Ex.B.1 and also on the documents produced by the Branch Manager, State Bank of India, Varagani to the Director, Forensic Science Laboratory, Red Hills, Hyderabad for comparison and opinion. The Court below dismissed the petition on the grounds that there is delay in filing the petition and that the documents containing contemporaneous signatures are not identified and therefore, referring documents to the expert by exercising power under Order XXVI Rule 10A C.P.C would serve no purpose.

The petitioner filed the petition after completion of cross examination of PW.1 to refer the disputed signature on Ex.A.1-promissory note along with admitted signatures of the deceased available with the Branch Manager, State Bank of India, Varagani i.e. account opening form. But the reason assigned by the Court below is not valid, in view of Full Bench Judgment of this Court in **Bande Siva Shankara Srinivasa Prasad v Ravi Surya Prakash and others**¹ wherein it was held that the Court is not barred from sending disputed handwriting/signature to expert for comparison merely because time gap between admitted

¹ 2016(2) ALD 1 (FB)

handwriting/signature and disputed handwriting/signature is long. It would ultimately be for expert concerned to voice his conclusion as to whether disputed handwriting/signature and admitted handwriting/signature are capable of comparison for a viable expert opinion. Therefore, applying the above principle to the present facts of the case, impugned order is liable to be set aside.

In the result, the civil revision petition is allowed setting aside the docket order dated 09.09.2016 in I.A.No.509 of 2016 in O.S.No.115 of 2014 passed by the Senior Civil Judge, Bapatla and I.A.No.509 of 2016 is allowed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

05.11.2018
kvrm

M. SATYANARAYANA MURTHY, J

