

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.6876 OF 2018

ORDER:

Heard Mr.Ramachandra Reddy for petitioner.

The plaintiff is the revision petitioner. The revision petitioner filed I.A. No.209 of 2018 under Order 16 Rule 10(A) of Civil Procedure Code read with Section 45 of the Indian Evidence Act to send the disputed signatures on Exs.A1 to A3 for comparison with the admitted signatures on Ex.A6 (written statement in O.S. No.293/1992) etc.

The respondents filed counter affidavit and opposed the application.

The trial Court framed the following point for consideration:

"Whether the petitioner is entitled to seek the relief as prayed for in the Petition?"

The Court below firstly noted that the plaintiff has taken ample and sufficient time both before the commencement of evidence on his side and also while leading the evidence on his side. The signatures which are sought to be compared firstly are not contemporaneous and that these signatures cannot also be sent for examination to find out the genuineness of disputed signatures. With the above broad conclusions, the I.A. has been dismissed. Hence, the CRP.

Mr.Ramachandra Reddy contends that on 20.08.2018, the evidence of defendants' side is completed. On 12.07.2018 the revision petitioner filed the instant application. The signatures now relied on for comparison cannot be excluded as not being contemporaneous signatures, inasmuch as the proximity time

between the disputed signatures and the admitted signatures will have to be borne in mind in coming to such conclusion. He further contends that dismissing application by referring to delay does not further the ends of justice. The application, if is not allowed, the revision petitioner will be deprived of valuable opportunity to prove the case. He prays for allowing the revision by setting aside the order under revision.

I have perused the record. Adverting to the first contention, this Court is of the view that the suit is of the year 2005. With utmost complacency, the trial is conducted by the parties. The trial Court has noted the duration of litigation and also the time taken by the revision petitioner and held the conclusions stated above, albeit rightly. As regards contemporaneous signatures, the reasoning given is the dates of admitted and disputed signatures are at different points of time and cannot be treated as signatures of executant at contemporaneous time. If it can be shown that the basis for arriving at such conclusion is vitiated by a wrong circumstance or comparison, this Court can exercise its jurisdiction under Article 227 of Constitution, and find out whether the comparison with the so called admitted signatures can be directed or not. In the absence of such objection to the findings recorded by the trial Court, I am convinced the grounds fail. Finally, the trial Court has found that sufficient opportunity was given to revision petitioner. The evidence of defendants was closed on 20.08.2018. This Court is of the view that closure of evidence is not the determining factor for exercising the discretion in applications of this nature. The revision petitioner at the earliest point of time knew the

case he has to meet or prove and now the reason given in the affidavit is that the signatures if are compared, no prejudice will happen to respondents. After taking note of all these circumstances and the material on record and also submissions raised by Mr.Ramachandra Reddy, this Court is convinced that no ground is made out for interfering with the order under revision. Revision fails and is accordingly dismissed. No order as to costs.

The trial Court is directed to dispose of the suit as expeditiously as possible preferably within six weeks from the date of receipt of a copy of this order.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 23.11.2018
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S.V.BHATT, J