

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.5718 OF 2017

O R D E R :

This revision is filed against the order dated 02-08-2017 in I.A.No.901 of 2017 in O.S.No.439 of 2011 wherein and whereby the Court below dismissed the application filed by the petitioner under Section 45 of Evidence Act read with Section 151 C.P.C. to permit the petitioner to send disputed promissory note i.e. Exs A.1 and A2 (endorsement on back side of pronote) to the handwriting expert after obtaining specimen signatures of petitioner/defendant for comparison and opinion.

Learned counsel for the petitioner/defendant submits that in the written statement, the petitioner has taken a specific plea that Ex.A.2 is forged one and the petitioner has never given any endorsement and the Court below should have allowed the application and that the application is filed immediately after evidence of plaintiff is concluded and there is no lapse on the part of the petitioner.

In this case, it is to be seen that the application is filed for sending Exs A.1 and A.2 to the handwriting expert for getting opinion. But in the written statement, though the petitioner admits signature on Ex.A.1, but he says that it is a fabricated one. As such, signatures on Ex.A.1 can be taken as admitted signatures of petitioner. Since the petitioner disputes the signature on Ex.A.2, it can be sent for

handwriting expert for comparison of signatures with that of Ex.A.1. As contended by learned counsel for the petitioner that crux of the matter depends on Ex.A.2 since it is stated that it is acknowledgment of debt. Though notice is sent to the address of the respondent, the same is returned as 'door locked', which amounts to service of notice. Though the Court can compare signatures under Section 73 of Evidence Act, it will be useful for the Court to get opinion of the expert for adjudicating the suit.

In view of the same, the impugned order is set aside and the Court below is directed to send Ex.A.2 to the handwriting expert for comparison of signatures on Ex.A.1 and Ex.A.2 for his opinion.

Accordingly, the revision is allowed to the extent indicated above. As a sequel thereto, miscellaneous petitions, if any, pending in this revision, shall stand closed.

A.RAJASHEKER REDDY, J

16-02-2018
Nvl