

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

C.R.P.NO.5679 OF 2017

ORDER

The respondent herein, filed ATC.No.02 of 2016 on the file of Principal Junior Civil Judge, Palakol, West Godavari, for eviction of the petitioner herein, from the petition schedule property, by terminating the tenancy rights and to deliver possession. The respondent based her claim *inter alia* on settlement deed, revenue records and rent acquittance book showing payment of maktha / rent over the petition schedule property by the petitioner herein to the respondent. The petitioner herein filed counter affidavit to the main ATC. Pending trial, petitioner herein, filed I.A.No.952 of 2017 in ATC.No.2 of 2016 under Section 45 of the Indian Evidence Act, 1872, to send the signature contained in rent acquittance book, for comparison with his admitted signatures, to an expert for opinion. By the impugned order and decree dated 19-09-2017, the trial court dismissed the I.A. Aggrieved by the same, the present revision is filed.

The learned counsel appearing for the revision petitioner submitted that the respondent filed the main ATC for eviction on the ground that the petitioner defaulted in payment of makta/rent. To show that he was earlier paying makta, the respondent relied on rent acquittance book, alleged to have been signed by the petitioner. The learned counsel contended that the petitioner is denying the landlord and tenant relationship and that the said document is forged. Therefore, to prove his case, the petitioner sought to send his disputed signature on rent acquittance book to an expert for comparison and opinion, but the trial court dismissed the same. The learned

counsel for the petitioner submits that if the said document is not sent to an expert for opinion, it will affect the case of the petitioner in the trial.

On the other hand, the learned counsel for the respondent submits that in the counter filed by the petitioner to the main ATC, there is no specific denial and no plea is taken that his signature was forged on rent acquittance book. Therefore, he cannot now be permitted to raise such a plea, which is an after thought. Therefore, he sought to dismiss the revision.

Admittedly, the suit schedule property stands in the name of the respondent. Therefore, as observed by the court below, the petitioner has to prove that in what capacity he is in possession of the said property. The rent acquittance book, which is sought to be sent to an expert for opinion on signatures, is without any recitals about the description of the disputed property. Considering these circumstances and the respective claims, as no useful purpose would be served in sending the document to an expert for opinion, the trial court dismissed the revision. Having regard to these facts and circumstances, I do not find any illegality or perversity in the impugned order. The revision petition is devoid of any merit and the same is accordingly dismissed.

Miscellaenous petitions pending, if any, shall stand closed. No costs.

A.RAJASHEKER REDDY,J

DATE:09—02—2018

AVS