

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.5983 OF 2017

ORDER:

1 This Civil Revision Petition is filed under Article 227 of the Constitution of India aggrieved by the order dated 16.10.2017 passed in I.A.No.244 of 2017 in O.S.No.305 of 2008 on the file of the Court of the ILI Additional Senior Civil Judge, Nandyal.

2 Heard the learned counsel for the petitioner and respondents and perused the record.

3 The facts leading to the filing of the present Civil Revision Petition are as follows:

4 The petitioner herein filed O.S.No.305 of 2008 on the file of the Court of the II Additional Senior Civil Judge, Nandyal against the respondents for partition of the suit schedule property and for cancellation of the gift deeds dated 01.08.2007, 01.02.2018 and 31.3.2018 on various grounds. The respondents herein filed written statement taking a plea that their mother executed the above said gift deeds in their favour. During the course of trial the petitioner got marked Ex.A.5 letter, dated 18.07.1985, purported to have been written by her mother to her. During cross examination of the first respondent (D.W.1), the learned counsel for the petitioner/plaintiff put a suggestion to D.W.1 that Ex.A.5 is in the hand writing of the mother of the petitioner and respondents. Incidentally, the first respondent denied the said suggestion.

5 In a suit for partition, the issue to be decided by the court is whether the plaintiffs are entitled to the relief of partition basing on the nature of the suit schedule property. However, in this case, the

entire controversy revolves around the gift deeds dated 01.08.2007, 01.02.2018 and 31.3.2018. It is not the case of the plaintiff that the gift deeds do not bear the signature of her mother. The crucial question that falls for consideration is whether sending of Ex.A.5 to the expert will throw any light on the issue involved in the suit. Whether Ex.A.5 is in the hand writing of the mother of the petitioner and respondents will no way helpful to adjudicate the issue involved in the suit effectively. Even without sending Ex.A.5 to the expert, the court can resolve the issue involved. It is needless to say that the opinion given by expert is a weak piece of evidence. I am fully endorsing with the findings recorded by the trial court. The trial court has assigned reasons much less cogent and valid reasons to its findings. There is no illegality, irregularity or impropriety in the order passed by the trial court which warrants interference of this Court under Article 227 of the Constitution of India. The Civil Revision Petition is devoid of any merit and is liable to be dismissed.

6 In the result, the Civil Revision Petition is dismissed. No order as to costs. However, the trial court is directed to dispose of the suit without being influenced by any of the observations made by this Court in this revision. As a sequel, miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand dismissed.

T.SUNIL CHOWDARY, J

Date: June 27, 2018

Kvsn