

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Civil Revision Petition No.6395 of 2017

ORDER:

Heard Sri B.M. Patro, learned counsel for the petitioner.

2. In a suit filed for perpetual injunction simplicitor by the respondents/plaintiffs, the revision petitioners/defendants made an application in I.A. No.93 of 2016 in O.S. No.7 of 2015 before the learned Junior Civil Judge, Ponduru, under Section 45 of Indian Evidence Act read with Section 151 of Civil Procedure Code requesting to send Ex.A4-Will, said to have executed by one Tadivalasa Appayya and also Exs.A2 and A3, pattadar pass book and title deed of Tadivalasa Appayya to the opinion of the Handwriting Expert on thumb mark occurring therein so as to find out the age of the ink and paper of the alleged Ex.A4-Will, dated 30.03.1996.

3. The learned Court below having formulated relevant point referring to the rulings relied on by the learned counsel for the respondents in *M. Pentaiah v. B. Parameshwar* [2012 (3) ALD 755], *Md. Tajuddin v. Md. Abdul Rahaman & Ors.* [2007 (3) ALD 145] and *Kaveti Sarada v. Vemineni Hymavathi* [2006 (4) ALD 460] for the proposition that the expert's opinion is nothing but piece of evidence and it is for the Court to arrive at its own decision, refused to grant the relief and dismissed the application on the main ground that in a suit for bare injunction such a relief cannot be sustained.

4. Learned counsel would attack that finding recorded by the Court below. It is clear that in a suit for perpetual injunction what

all required to be done is the plaintiffs have to prove their possession over the suit schedule property on the date of filing of the suit and nothing more. So far as title is concerned, incidentally, a probe will be made but not any positive finding will be recorded.

5. Therefore, the order passed by the Court below does not suffer from any irregularity.

6. Accordingly, the present Civil Revision Petition is dismissed at the stage of admission.

As a sequel there to miscellaneous petitions, if any, pending in the present Civil Revision Petition shall stand closed.

February 2, 2018.
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A. SHANKAR NARAYANA, J

