

**HON'BLE SRI JUSTICE U.DURGA PRASAD RAO**

**CIVIL REVISION PETITION No.7309 OF 2018**

**ORDER:**

At the admission stage, this civil revision petition is disposed of, as this Court is of the considered view that there is no expediency to order notice to respondents.

2. The petitioners/plaintiffs having been aggrieved by the order dated 03.08.2018 in I.A.No.1453 of 2017 in O.S.No.241 of 2008 passed by learned Principal Junior Civil Judge, Palakol, West Godavari District, dismissing the petition filed by them under Section 45 of Indian Evidence Act to refer Ex.A1 - Will deed dated 04.01.1992 along with original registered settlement deed dated 07.10.1986 to a handwriting expert to compare the signatures of the petitioners' father Palaparthi Venkata Narasayya and to give his opinion, filed the instant civil revision petition.

3. O.S.No.241 of 2018 is filed by the petitioners/plaintiffs seeking declaration of their right in plaint schedule property and consequent permanent injunction. The plaintiffs are claiming the plaint schedule property on the strength of Ex.A1 - Will dated 04.01.1992 said to have been executed by their late father. In that context, they filed I.A.No.1453 of 2017 to refer Ex.A1 along with original registered settlement deed dated 07.10.1986 to handwriting expert. The trial court having observed that the genuineness of the Will dated

04.01.1992 is an issue in the suit and the law under Section 68 of Indian Evidence Act prescribed a separate procedure for proof of execution of the Will and therefore, the opinion of the expert even if secured will be of no avail to the petitioners/plaintiffs in their endeavor to prove the Will, dismissed the petition.

4. This Court finds absolutely no fault or illegality or perversity in the order impugned. As rightly observed by the trial court, in respect of proof of wills, the law under Section 68 of Indian Evidence Act has prescribed a specific procedure and therefore, the plaintiffs in order to prove the due execution of Ex.A1 - Will have to follow the said procedure. In that view of the matter, referring the disputed Ex.A1 - Will to an expert for proving the alleged signature of plaintiffs late father on the said Will will not be a substitute for proof of the Will as prescribed under Section 68 of the Indian Evidence Act. The order impugned is impregnable and therefore, the civil revision petition is dismissed at the admission stage.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. No costs.

**18.12.2018**  
**SS**

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**U.DURGA PRASAD RAO, J**