

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.NOS.447 AND 479 OF 2019

COMMON ORDER

These two Revisions arise between the same parties out of same suit and so they are being decided by this common order.

Petitioner is the plaintiff in the suit in O.S.No.923 of 2009.

He filed the said suit against the respondents for perpetual injunction restraining the respondents from interfering with his alleged peaceful possession and enjoyment of the plaint schedule property.

In the plaint he pleaded that he purchased the plaint schedule property under registered agreement of sale – cum – G.P.A. bearing document No.4224/09 dated 08.07.2009 executed in his favour by one J.Bhadraiah. He also pleaded that possession of the property was delivered to him.

Written statement was filed by the respondents claiming that one S.Nagaiah purchased 20 guntas of land along with the respondents from the same Bhadraiah under a simple sale deed dated 26-10-1972, and by virtue of subsequent transaction mentioned in the written statement, they have a right over the property.

The said Bhadraiah was examined as P.W.2 by the petitioner. He admitted his signature on Ex.B-1.

Petitioner then filed, at the stage, when the matter is posted for arguments, I.A.No.1014 of 2018, to reopen his evidence and I.A.No.1015 of 2018 under section 45 of the Indian Evidence Act, 1872, to send the admitted signatures appearing on the deposition of P.W.2 and the registered document Ex.A-1 with the disputed signature on Ex.B-1, for expert opinion, contending that the signature appearing on Ex.B-1 is not the signature of P.W.2, and that Ex.B-1 is a forged document.

Respondents filed counter affidavits opposing the applications stating that when the executant of Ex.B-1 i.e., P.W.2, had admitted his signature thereon, there is no reason to doubt the signature of P.W.2 on Ex.B-1 and it is not necessary to send it for expert opinion.

The court below rejected both the applications stating that when P.W.2 admitted his signature on Ex.B-1 when it was confronted to him, there is no necessity to send the document to an expert. It was also pointed out that the signature purporting to be that of P.W.2, was made in the year 1972, while the signature on Ex.A-1 pertains to the year of 2009, and P.W.2's evidence is being recorded in the year 2017. In view of the time gap, it

would not be appropriate to compare the signature on these documents and there is no necessity to reopen the evidence of the petitioner.

Assailing the same, these Revisions are filed.

Counsel for the petitioner contended that since the petitioner is denying the signature of P.W.2 on Ex.B-1, and since the witness P.W.2 appears to have been won-over by the respondents, it is just and necessary to send the said document to the expert to verify whether the signature purporting to be that of P.W.2 on Ex.B-1, was really the signature of P.W.2 or not.

As rightly held by the court below, when P.W.2, the executant of Ex.B-1 himself admitted his signature thereon, there is absolutely no necessity to send the document to an expert to decide whether the signature purported to be that of P.W.2 on Ex.B-1, is really P.W.2's signature or not.

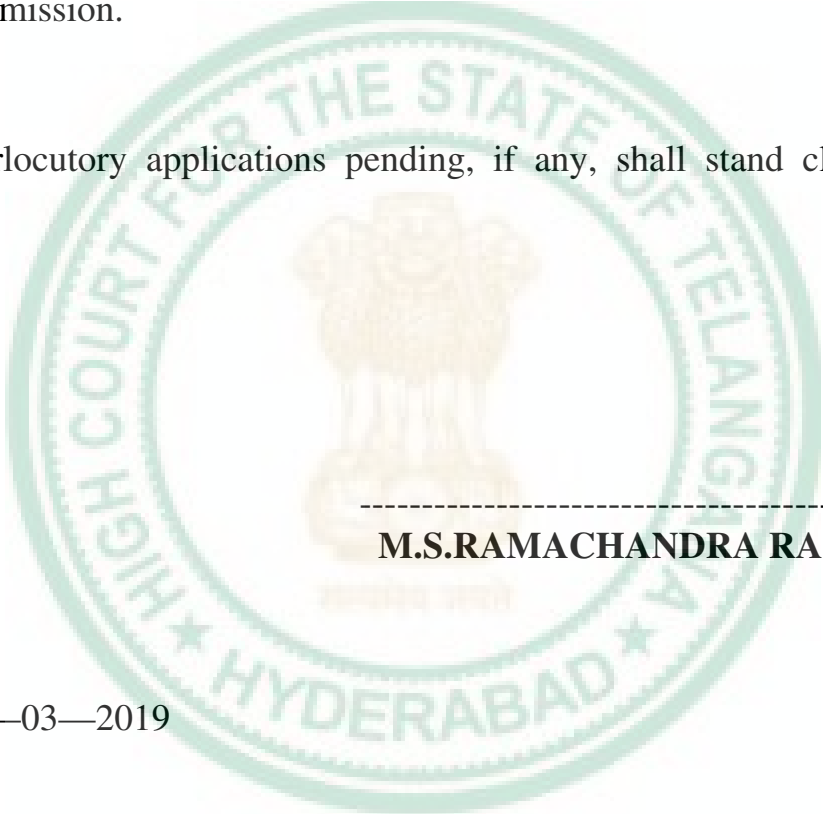
In any event, the signature on Ex.B-1 is of the year 1972, while the signature on Ex.A-1 is of the year 2009 and evidence of P.W.2 was being recorded in the year 2017, therefore, it would not proper, because of the time gap, to compare the admitted signatures of P.W.2 on his deposition and Ex.A-1 with the disputed signature purported to be his signature on Ex.B-1.

Consequently, there is also no necessity to reopen the evidence of the plaintiff.

I, therefore, do not find any error of jurisdiction in the order passed by the court below warranting interference of this court under Article 227 of the Constitution of India.

Accordingly both the Revisions fail and they are dismissed at the stage of admission.

Interlocutory applications pending, if any, shall stand closed. No costs.



M.S.RAMACHANDRA RAO,J

DATE:14—03—2019

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