

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.917 of 2019

ORDER :

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.05-06-2017 in I.A.No.955 of 2015 in O.S.No.959 of 2010 of the VIII Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar, Hyderabad refusing to refer an agreement of sale dt.18-12-2008 to expert's opinion for comparison with the signature of defendant to the Forensic Science Laboratory, Red Hills, Hyderabad as mentioned in the affidavit filed in support of the said application.

2. One of the reasons assigned in the impugned order for not considering the said prayer is that there was a common affidavit filed for three applications including the application containing prayer for reference to the FSL.

3. In my considered opinion, this cannot be a ground to reject the application. The Court below could have asked the party to file a separate affidavit for each application if it so desired, but even that would be unnecessary since the common affidavit is before the Court.

4. The other reason assigned is that there is no reason in the affidavit filed by petitioner as to why petitioner is seeking such a relief.

5. This is also not correct because in para-6 of the affidavit filed, the reason is mentioned as under:

“6. In the above facts and circumstances, it is also necessary to recall the plaintiff (PW1) and reopen the evidence so as to cross-examine him before the Honourable Court to get the truth out to prove my innocence. The suit document i.e. agreement of sale filed by the respondent/plaintiff before the Honourable Court is created document and forged my signature on the 2nd page of the said document. It is necessary to ascertain during the course of cross-examination. In case of failure in ascertaining the truth, it is necessary to send the document to expert opinion to compare my signature with that of signature made on the non-judicial stamp paper on which the part of agreement of sale is created and signature on my vakalat filed in the present suit. Unless the Honourable Court recall the P.W-1 and reopen the evidence of the plaintiff, I would be put to irreparable loss and hardship. Hence, the present petition and affidavit is filed before the Honourable Court.”

6. In this view of the matter, the impugned cannot be sustained. It is accordingly set aside; and I.A.No.955 of 2015 in O.S.No.959 of 2010 filed by petitioner is remanded back to the Court below to consider afresh and dispose of after hearing both sides within six (06) weeks from the date of receipt of copy of this order.

7. The Civil Revision Petition is allowed with the above directions. No costs.

8. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 23-08-2019

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