

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

CRP.No.s 1096, 1097, 1098 and 1099 of 2019

COMMON ORDER:

1. Heard both sides.
2. These four Revisions arise out of the same suit, between the same parties, and so they are being disposed of by this common order.
3. Petitioners in all these Revisions are plaintiffs in O.S.No.530 of 2006 on the file of the III Additional District Judge, Ranga Reddy District.
4. The said suit was filed by the petitioners against the respondents for specific performance of an Agreement of Sale dt.10.11.2004 in respect of the suit schedule property.
5. The 1st respondent raised a defence that his signature in the said Agreement of Sale was forged.
6. Thereafter, two issues were settled and the matter was posted for trial.
7. Petitioners examined PW.s 1 to 3 and marked Ex.s A1 to A12. Respondents examined DW.s 1 to 3 and marked Ex.s B1 to B12 and Ex.X1.

8. Thereafter, the 1st respondent filed I.A.No.s 583 and 584 of 2017 to reopen his evidence to examine the expert from Truth Labs, Hyderabad and to summon the said expert to give evidence on his report, and the said I.A.s were allowed on 08.09.2017.

9. Petitioners on the other hand filed I.A.No.s 642 and 643 of 2017 for re-opening and re-examination of the documents in dispute, but they were rejected by the trial Court by order dt.08.09.2017.

10. Petitioners questioned the orders in I.A.No.s 583 and 584 of 2017 and I.A.Nos.642 and 643 of 2017 in CRP.No.s 5128, 5129, 5197 and 5199 of 2017.

11. The said Revisions were also dismissed on 17.11.2017.

12. The SLP.Nos.1119 – 1122 of 2018 filed before the Supreme Court challenged the orders passed in the said Revisions were also dismissed on 22.01.2018.

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13. One of the witnesses examined by the respondents was DW3, who was employed as a Scientific Officer in Truth Labs, and he deposed with regard to Ex.X1 report.

14. After the case was posted for arguments to 02.01.2019, petitioners filed four applications: (i) *I.A.No10 of 2019* under

Order VII Rule 14(3) CPC to receive certain documents by condoning the delay in filing the said documents;
 (ii) *I.A.No.11 of 2019* under Order XVIII Rule 17 CPC to recall PW1 for the purpose of marking these additional documents;
 (iii) *I.A.No.12 of 2019* to reopen the evidence of PW1 for the purpose of adducing further evidence and for marking of additional documents and (iv) *I.A.No.159 of 2019* to permit them to examine another handwriting expert by name T.S.N. Murthy as their witness.

15. According to them, Dr.T.S.N.Murthy, Hand-Writing Expert, would speak with regard to the status of the Truth Labs and that the petitioners had filed extract from the *internet* about the difference between ISO-17025 and ISO-9001 and that the Truth Labs, Hyderabad which had given the report, Ex.X1, does not have proper accreditation from ISO.

16. Respondents 1 to 5 filed counter affidavit opposing the said applications. They contended that earlier petitioners had filed I.A.No.1036 of 2018 for examination of Dr.T.S.N.Murthy, I.A.No.61 of 2018 to reopen their evidence to examine Dr.T.S.N.Murthy, and I.A.No.62 of 2018 to receive the expert opinion of Dr.T.S.N.Murthy, but these applications were dismissed on 02.11.2018 by the trial Court and they were also confirmed on 15.12.2018 by this Court in

CRP.No.6648, 6649 and 6650 of 2018 by imposing costs of Rs.5,000/- on the petitioner in each Revision; and therefore, the orders passed in I.A.No.s 61, 62 and 1036 of 2018 would operate as *res judicata* and bind the petitioners, and they cannot re-agitate the same issues.

17. They also pointed out that evidence in the suit had already been concluded and the suit is coming up for arguments; that PW1 was earlier been re-called on two occasions by reopening the evidence and the handwriting expert DW3 of Truth Labs was also re-called on two occasions. They pointed out that the Report of the Truth Labs was subjected to cross-examination extensively, that no reason is now assigned for recalling PW1, and if the evidence of the petitioners is re-opened, it would help the petitioners to overcome the admissions made by PW1. They alleged that the report of T.S.N.Murthy, sought to be filed by the petitioners, was received in evidence and if he is again re-called to give evidence, no purpose would be served.

18. By common order dt.12.04.2019, the Court below dismissed all the applications. It referred to the orders in CRP.No.s 5128, 5129, 5197 and 5199 of 2017, wherein this Court had rejected the attempt of the petitioners to seek second expert T.S.N.Murthy's examination of the disputed

signature on Ex.A4, Agreement of Sale, with another document of the year 2004; and held that the petitioners' plea that the purpose for which Dr.T.S.N.Murthy is now sought to be summoned is totally different from the purpose for which he was originally attempted to be summoned in the instant applications, is to speak about the difference between ISO-9001 and ISO-17025, is not tenable.

19. They contended that the documents submitted for receipt by the Court in I.A.No.10 of 2019 are the questioned and standard signatures of the 1st respondent, and when the said contention was negatived earlier, there cannot be a re-agitation of the same.

20. It also observed that summoning Dr.T.S.N.Murthy is also not permissible in view of the observations made by this Court while deciding CRP.Nos.5128 of 2017 and batch.

21. It held that it is an abuse of process of the Court by the petitioner to seek to introduce new facts by filing these applications and they cannot be allowed.

22. Assailing the same, these Revision are filed.

23. Counsel for the petitioners contended that, no doubt DW3, a Scientific Officer of the Truth Labs, had given a report Ex.X1, and the petitioners want to file the questioned

and standard signatures of the 1st respondent by re-opening the evidence of PW1 and by recalling him for marking those documents and this cannot be denied to the petitioners.

24. This contention cannot be accepted, because the documents, which the petitioners are submitting, are the questioned and standard signatures of 1st respondent and their earlier attempt to get a report through a second expert T.S.N. Murthy by comparing the signatures on Ex.A4, Agreement with some other documents has been rejected by this Court on 17.11.2017 in CRP.No.s 5128 of 2017 and batch.

25. Petitioners therefore cannot re-agitate the same issue by again producing the documents containing the questioned and standard signatures of the 1st respondent and by-pass the order passed by this Court on 17.11.2017 in CRP.No.s 5128 of 2017 and batch.

26. Regarding the ISO certification of Truth Labs, the petitioners cannot re-call T.S.N.Murthy to give evidence because their earlier request to examine Dr.T.S.N.Murthy as a witness was rejected in I.A.No.1036 of 2018 on 02.11.2018 and the said order was confirmed in CRP.No.6648 of 2018 and batch. Once this Court had refused to permit him to be examined as a witness he cannot be re-called again to speak

on any other aspect either. I therefore do not find any merit in these Revisions.

27. Accordingly, all these Civil Revision Petitions are dismissed. No order as to costs.

28. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

1st August, 2019.
Gra.

