

HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

CIVIL REVISION PETITION Nos.1548 and 1608 of 2018

COMMON ORDER :

These two Civil Revision Petitions arise between the same parties in 2 different suits filed for recovery of money on the basis of Promissory Notes by the respondent against the petitioner and hence they are heard together and being disposed of by this common order.

The signature purporting to that of the petitioner in the Promissory Notes was alleged to be forged by the respondent/plaintiff. At her instance, the Promissory Notes in question were sent to a Handwriting Expert for his opinion when the petitioner had filed applications under Section 45 of the Indian Evidence Act, 1872 for the said purpose. The opinion of the Expert, who was an employee of Telangana State Forensic Science Laboratory, Hyderabad, was obtained and the Expert was also examined as a witness in the Court. Thereafter, the petitioner filed I.A.No.1565 of 2017 in O.S.No.65 of 2004 and I.A.No.1712 of 2017 in O.S.No.102 of 2004 to send the very same Promissory Notes to another authorised Handwriting Expert for second opinion.

In the affidavit filed in support of the said applications, the petitioner contended that the reasons and opinion assigned by the Expert are not valid, because he did not properly examine the signatures on the Promissory Notes and

also did not take any technical support and his opinion is not based on a valid scientific procedure prescribed, but is based on mere assumptions and presumptions.

Counter affidavit was filed by the respondent in both the applications opposing the relief sought for in the said applications. It is contended that the said applications are filed only to consume the valuable time of the Court and there is no valid reason to send the Promissory Notes to another Handwriting Expert.

By separate orders dt.16.02.2018, the Court below dismissed both the applications. It observed that since the Expert had given his opinion and had also given evidence in the Court, no opinion can be expressed by it on the said evidence of the Expert, at this stage, and it can only be considered at the time of giving final judgment in the suit. It also observed that merely because the opinion of the Expert is not favourable to a party, he cannot file another application under Section 45 of the Indian Evidence Act to have the document sent to another Handwriting Expert, but he can only raise objections against the opinion, which was not favourable to him.

Assailing the said orders, these Civil Revision Petitions are filed.

Though learned counsel for the petitioner sought to contend that grave prejudice would be caused to the petitioner if the Promissory Notes in question are not referred

to another Handwriting Expert for second opinion and certain portions of the cross-examination of the Expert witness PW.3 is also brought to my attention, I am of the opinion that it is not desirable to go into the correctness of the Expert's opinion or its validity at this stage.

Therefore, the Court below did not commit any error of law or jurisdiction in refusing to send the Promissory Notes in question to another Handwriting Expert for his opinion. However, it is open to the petitioner to file objections, if any, to the opinion of the Handwriting Expert and the same shall be considered by the Court below, while deciding the suits.

For the aforesaid reasons, these Civil Revision Petitions are dismissed. No order as to costs.

As a sequel, the miscellaneous petitions pending, if any, in these Revisions shall stand closed.

M.S. RAMACHANDRA RAO, J

10.04.2019.
Msr

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