

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

CIVIL REVISION PETITION NO.1594 OF 2019

ORDER:

This Revision is filed under Article 227 of the Constitution of India, challenging the order, dt.19.06.2019 in I.A.No.202 of 2017 in O.S.No.214 of 2013 on the file of the Principal Senior Civil Judge, Mahabubnagar.

2. The petitioner is the plaintiff in the suit.

3. The said suit was filed by the petitioner against the respondent-defendant for specific performance of Ex.A1-agreement of sale, dt.24.03.2010 and for other reliefs.

4. Written statement was filed by the respondent opposing grant of relief to the petitioner. He took a plea that the suit agreement was obtained by coercion. It is also contended that the petitioner was never ready and willing to perform his part of contract and that the respondent had terminated the agreement of sale through legal notice, dt.07.09.2011. He also raised a plea of bar of limitation by contending that agreement of sale Ex.A1 is dt.24.03.2010, while the suit was filed on 29.07.2013 beyond the period of 3 years prescribed in Article 54 of the Limitation Act.

5. During the course of evidence of the petitioner, P.W.2 was examined. The said witness stated that he signed as a witness in Ex.A1-agreement of sale, but then stated that Ex.A1 filed in the suit did not bear his signature; and the agreement of sale filed before the Court was not the one which was actually signed by him and that some pages in the said agreement of sale were changed and the signature of the respondent was forged on those pages. The specific contention was that pages 2 and 3 in the agreement of sale were replaced with the forged signatures of the respondent by removing the

condition of date of performance of agreement with an intention to bring the suit within the limitation.

6. Asserting these contentions and also raising a plea that in his evidence during cross-examination, he had deposed that signatures on pages 2 and 3 do not belong to him. he filed I.A.No.202 of 2017 to send Ex.A1 to a handwriting Expert at Telangana Forensic Science Lab, Red Hills, Hyderabad, for comparison of signatures available on pages 1 and 4 with pages 2 and 3 along with the other admitted signatures mentioned therein.

7. Counter-affidavit was filed by the petitioner opposing the said application. He denied the contention that he had replaced 2 pages in Ex.A1 agreement of sale and the signature purported to be that of the respondent on two pages was a forgery. He alleged that filing of this application is only with an intention to delay the disposal of the suit and it ought not to be permitted because the Court itself can compare the signatures on the document Ex.A1 with the disputed signatures.

8. By order, dated 19.06.2019, the Court below allowed the said application. In doing so, it noted the evidence of P.W.2 and D.W.1 (wherein the respondent contended that pages 2 and 3 of Ex.A1 were replaced with his forged signatures by removing condition of performance of agreement and that it was stated by the respondent in cross-examination that the signatures on pages 2 and 3 of Ex.A1 did not belong to him). The Court below observed that even though it has power to compare the signatures on Ex.A1 with the admitted signatures, it is always better to refer to a scientific expert for comparison since the expert possesses sufficient scientific knowledge regarding forgery of signatures. It also observed that the limitation is an important point to be considered in the

suit, which was filed for specific performance and the expert's evidence would help the Court.

9. Assailing the same, this Revision is filed.

10. The learned counsel for the petitioner contended that the Court below erred in allowing I.A.No.202 of 2017 and directing that Ex.A1 document be sent to the handwriting expert of Telangana State of Forensic Science Lab, Red Hills, Hyderabad, for comparison of signatures available on pages 1 and 4 with the signatures of the respondent on pages 2 and 3 along with the admitted signatures.

11. In the light of the evidence of P.W.2 and D.W.1, the Court below cannot be said to have erred in granting the said relief. Though the Court itself might compare the signatures, when scientifically trained experts on the subject are available, there is nothing wrong for the Court seeking a report from them particularly, when the document in question is main document in the suit.

12. Therefore, I 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.

13. Accordingly, the Civil Revision Petition is dismissed at the stage of admission. The Court below shall expedite the disposal of the suit. No order as to costs. Miscellaneous petitions, if any pending in this Revision shall stand closed.

M.S.RAMACHANDRA RAO, J

DATED: 08-08-2019

Hsd

