

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**Civil Revision Petition No.2016 of 2019**

**ORDER :**

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.31.07.2019 passed in Interlocutory Application No.493 of 2019 in Original Suit No.932 of 2012 on the file of VIII Additional District Judge, Ranga Reddy District, at L.B. Nagar.

2. The petitioner herein is 2<sup>nd</sup> defendant in the above suit.
3. The 1<sup>st</sup> respondent herein filed the said suit initially against 5<sup>th</sup> respondent and petitioner for declaration of title and recovery of possession.
4. Her case is that the plaint schedule property belongs to her pursuant to a decree dt.22.08.1997 passed in Original Suit No.92 of 1996; that she executed a Gift Settlement Deed dt.11.01.2001 in favour of her son, the 5<sup>th</sup> respondent, for the benefit of his children and to enjoy during his lifetime; that there was a condition incorporated in the Gift Settlement Deed that the 5<sup>th</sup> respondent should not sell away the property; that the 5<sup>th</sup> respondent brought the petitioner in 2005 and introduced him as a prospective tenant, and the petitioner was inducted into possession of the property; that the 1<sup>st</sup> respondent came to know in the month of April, 2012 that petitioner was trying to sell away the suit schedule property to some third-

parties, and then she came to know that the 5<sup>th</sup> respondent had, in fact, sold away the property to petitioner without having any authority to do so. Therefore, she filed the suit to declare her as absolute owner of the suit schedule property and to direct the petitioner to deliver peaceful, vacant possession of the property to her and to declare the sale deed dt.19.12.2006, allegedly executed by 5<sup>th</sup> respondent in favour of petitioner as null and void and not binding on her. She also sought a perpetual injunction against the petitioner and 5<sup>th</sup> respondent restraining them from interfering with her possession and enjoyment of the suit schedule property.

5. Pending suit, the 1<sup>st</sup> respondent died; and respondent nos. 2 to 4 were added as her legal representatives.

6. After the trial was concluded, and the matter was posted for arguments to be addressed by the parties, the petitioner / 2<sup>nd</sup> defendant filed an application Interlocutory Application No.493 of 2019 under Section 45 of the Indian Evidence Act to send Exs.B.1 and B.2 along with Exs.B.3 and B.5 for comparison of signatures and thumb impressions of the deceased-plaintiff to a handwriting expert.

7. In the said application, it is contended that a suggestion was given on behalf of respondent nos.2 to 4 to DW.1 to D.W.4 that Exs.B.3, B.4 and B.5 were forged.

**8.** This application was opposed by respondent nos.2 to 4 contending that when the suit is posted for arguments, the present application is filed only to delay the disposal of the suit.

**9.** By order dt.31.07.2019, the Court below dismissed the said application stating that the application was filed at a belated stage after closure of evidence of both sides when the suit is coming up for arguments. It also observed that the Court itself can compare signatures under Section 73 of the Indian Evidence Act.

**10.** Assailing the same, the present Civil Revision Petition is filed.

**11.** It is the contention of counsel for petitioner / 2<sup>nd</sup> defendant that none of the Exhibits are relevant in view of the stand taken by respondent nos.2 to 4 that Exs.B.3 to B.5 were forged documents.

**12.** The main issue in the suit is whether the Gift Settlement Deed, executed by the deceased-Sole Plaintiff / 1<sup>st</sup> Respondent, on 11.01.2001 in favour of 5<sup>th</sup> respondent, is a conditional Gift or not.

**13.** Exhibits B.3 to B.5, relied upon by the petitioner, have no bearing on the said issue. Therefore, there is no necessity to send Exs.B.3 to B.5 for comparison of signatures and thumb impressions of the deceased- plaintiff with those on Exs.B.1 and B.2 to a handwriting expert.

**14.** Admittedly, the application itself was filed at a highly belated stage when the suit itself was coming up for arguments.

**15.** Therefore, the Court below is justified in refusing to entertain it.

**16.** In this view of the matter, the Civil Revision Petition is dismissed at the stage of admission. No order as to costs.

**17.** As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 22.08.2019

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