

THE HON'BLE Dr.JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2130 OF 2019

ORDER:

This revision under Article 227 of the Constitution of India, is filed by the petitioner/defendant, aggrieved by the order dated 01.07.2019 passed in I.A.No.161 of 2019 in O.S.No.128 of 2015 by the Additional Senior Civil Judge, at Karimnagar, wherein the said I.A. filed by the petitioner/defendant under Section 45 of Indian Evidence Act, seeking to send the disputed chit/receipt dated 05.09.2012 and the admitted handwriting of the respondent/plaintiff by obtaining the same in the open Court for comparison of the handwriting of the respondent/plaintiff and also to send the pronote of Ex.A.1 to know the age difference between signature and contents of the said pronote, was dismissed.

2) Heard the learned counsel for both sides and perused the record.

3) Learned counsel for the revision petitioner/defendant would submit that the document in question dated 05.09.2012 is necessary for proper adjudication of the defence setup by the revision petitioner. The Court below erroneously dismissed the subject I.A and did not send the document in question to the handwriting expert for examination and report. To buttress his argument, learned counsel relied upon the following decisions:

- i) *Velaga Sivarama Krishna v. Velaga Veerabhadra Rao and another*¹

¹ 2009 (1) ALT 379 (SB)

ii) *Bande Siva Shankara Srinivasa Prasad v. Ravi Surya Prakash Babu (died) per LRs and others*²

4) On the other hand, learned counsel for the respondent/plaintiff would contend that there are no details of receipt of the amount under the document in question. The said document is not communicative at all. The Court below having examined the whole document in question, was pleased to dismiss the subject I.A. The impugned order passed by the Court below is inconformity with law. There are no circumstances to take a different view and ultimately prayed to dismiss the revision petition.

5) The document in question is the alleged chit/receipt reflecting a date as 05.09.2012. The contention of the revision petitioner/defendant is that the respondent/plaintiff had acknowledged the receipt of amount mentioned in that document. On perusal of the said document, there is no mention of date of execution of said document. There are no contents of receipt. There is no acknowledgment with regard to the receipt or payment of the amount in question or acknowledgment of previous debt. Some mathematical calculations are made thereon. There is no mention of name of any person. Furthermore, there are no contents establishing any transaction in between the parties to the dispute. The decisions relied upon by the learned counsel for revision petitioner are quite distinguishable. There is no dispute with regard to the settled legal principle therein. There should be some document imposing duties and obligations on the parties to the suit or acknowledging any debt etc. In the absence of that,

² 2016 (2) ALT 248 (FB)

mathematical calculations figuring on the subject document, cannot be sent to the handwriting expert for examination and report. The Court below having examined the whole document in question, was justified in passing the impugned order. There is no perversity or illegality in the order under challenge. The civil revision petition is devoid of merits and is liable to be dismissed.

6) Accordingly, the Civil Revision Petition is dismissed. Pending Miscellaneous Petitions, if any, shall stand closed. No order as to costs.

Date: 05.11.2019
scs

Dr. SHAMEEM AKTHER, J

