

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

C.R.P. No.4628 of 2015

O R D E R:

This Revision is filed assailing the order dated 29.09.2015 in I.A.No.329 of 2015 in O.S.No.4469 of 2009.

2. Petitioner is the plaintiff in the suit. He filed the said suit for perpetual injunction restraining the respondents from interfering with the possession and enjoyment of the suit schedule property. One Laxminarayan, was shown as 2nd defendant in the suit. He is 3rd respondent in this Revision.

3. The petitioner had relied on Exs.A1 and A2 in the said suit which alleged by contained signatures of the said Laxminarayan and who had died.

4. The 1st respondent/3rd defendant initially filed I.A.No.286 of 2013 under Section 45 of the Indian Evidence Act, 1872 for sending disputed signatures on Exs.A1 and A2 with admitted signatures of Laxminarayan to experts.

5. The trial Court allowed the said I.A. on 18.06.2013.

6. Petitioner challenged it vide CRP.No.3366 of 2013 but the same was dismissed by this Court on 24.10.2013.

7. Certain documents were sent to the handwriting expert for comparison of the signatures of Laxminarayan on Exs.A1 and A2. However, the expert returned the said documents on

29.09.2015 stating that more documents were required to form an opinion. Thereafter, the 1st respondent could not take steps and his counsel reported no further evidence and his evidence was closed on 07.07.2015.

8. A while thereafter, on 25.08.2015, the 1st respondent filed I.A.No.329 of 2015 stating that he had discovered certain documents relating to the deceased Laxminarayan (D.2) and sought for a direction to the Branch Manager, Andhra Bank, Karwan to produce withdrawal forms, income tax exemption forms pertaining to savings bank account of the said Laxminarayan.

9. This application was opposed by the petitioner who stated that once evidence had been closed it cannot be re-opened and the only option available to the 1st respondent is to file an appeal.

10. The said contention was rejected and I.A.No.329 of 2015 was allowed on 29.09.2015. The Court below opined that merely because the evidence was closed earlier, at which point of time, the 1st respondent could not produce documents containing other signatures of late Laxminarayan, after such documents became available, he was entitled to produce them and he cannot be denied such opportunity.

11. Assailing the same, this Revision is filed.

12. Though counsel for the petitioner sought to contend that grave prejudice would be caused if the order passed by the Court below is not set aside, I am of the opinion that the Court below had rightly exercised its discretion and allowed the said I.A. on the ground that documents containing the signatures of the deceased Laxminarayan had become available subsequently, and the 1st respondent cannot be denied an opportunity to have these documents sent to handwriting expert for comparison of his signatures therein with Exs.A1 and A2 which purport to contain his signatures.

13. Accordingly, the Civil Revision Petition fails and is dismissed at the admission stage. Since the suit is of the year, 2009, the Court below is directed to expedite the hearing of the suit. No order as to costs.

14. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

04.02.2019

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