

THE HIGH COURT FOR THE STATE OF TELANGANA::
AT HYDERABAD

CIVIL REVISION PETITION Nos.3111 and 3153 of 2014

Between:

Surabhi Kishan Rao, S/o.Bhuma Rao, Aged
about 61 years, Occu: Business,
R/o.Vidyanagar locality, District Adilabad.

..... Petitioner.

And

Bejhjanki Indiera, W/o.B.Anand Rao, aged
about 56 years, Occu: Business,
R/o.H.No.7-7-17/2, Bhokthapur locality,
Adilabad Town, District Adilabad.

..... Respondent.

Date of Judgment pronounced on : 26-06-2019

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

1. Whether Reporters of Local newspapers : Yes/No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes/No
Of the Judgment?

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION Nos.3111 and 3153 of 2014

%19-06-2019

Surabhi Kishan Rao, S/o.Bhuma Rao,
Aged about 61 years, Occu: Business,
R/o.Vidyanagar locality, District Adilabad.

..... Petitioner.

Versus

\$ Bejhjanki Indiera, W/o.B.Anand Rao,
aged about 56 years, Occu: Business,
R/o.H.No.7-7-17/2, Bhokthapur locality,
Adilabad Town, District Adilabad.

.....Respondent.

< **GIST:**

> **HEAD NOTE:**

!Counsel for the Petitioner : Sri S.Chandrasekhar
^Counsel for respondent : Sri B.Vijaysen Reddy

? **Cases referred**

1. AIR 1994 A.P. 90
2. 2018 (6) ALT 285
3. AIR 1964 SC 529
4. AIR 2014 AP 37

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

C.R.P.Nos.3111 and 3153 of 2014

COMMON ORDER:

These two Revisions arise out of two different suits raising common question of law and so they are being disposed of by this common order.

2. The question which arises for consideration is whether at the instance of petitioner two promissory notes along with receipts dt.09-09-2008 can be sent to a Handwriting Expert to examine and give opinion in respect of age of writing and also age of signature?

3. Learned counsel for petitioner sought to rely on the judgments in **Uppu Jhansi Lakshmi Bai Vs. J.Venkateswara Rao**¹ as well as **Namineni Audi Sessaiah Vs. Numburu Mohan Rao**² in support of this plea.

4. In **Uppu Jhansi Lakshmi Bai** (1 supra), it was held that to determine the age of ink on any document, Expert opinion can be sought.

5. In **Namineni Audi Sessaiah** (2 supra), similar view has been taken and it is stated that there is an institution by name Nutron Activation Analysis where there is a facility to find out the

¹ AIR 1994 A.P. 90

² 2018 (6) ALT 285

approximate range of time during which writings would have been made and that it is a Central Government organization.

6. However in **Shashi Kumar Banerjee Vs. Subodh Kumar Banerjee**³, the Supreme Court observed:

“7. Finally we may point out that the expert admitted in his evidence that it was only by a chemical test that it could be definitely stated whether a particular writing was of a particular year or period. He also admitted that he applied no chemical tests in this case. So his opinion cannot on his own showing have that value which it might have had if he had applied a chemical test. Besides we may add that Osborn on "Questioned Documents" at p. 464 says even with respect to chemical tests that "the chemical tests to determine age also, as a rule, are a mere excuse to make a guess and furnish no reliable data upon which a definite opinion can be based". In these circumstances the mere opinion of the expert cannot override the positive evidence of the attesting witnesses in a case like this where there are no suspicious circumstances”.

7. Another learned Single Judge of this Court in **Kambala Nageswara Rao Vs. Kesana Balakrishna**⁴ observed:

“4. The application, no doubt, is filed under Section 45 of the Act, and it is not uncommon that such applications are filed in the suits for recovery of money on the strength of promissory notes. However, the prayer in the I.A. is some-what peculiar. Even while not disputing his signature on the promissory note, the petitioner wanted the age thereof to be determined. Several complications arise in this regard. The mere determination of the age, even if there exists any facility for that purpose; cannot, by itself, determine the age of the signature. In a given case, the ink, or for that matter, the pen, may have been manufactured several years

³ AIR 1964 SC 529

⁴ AIR 2014 AP 37

ago, before it was used, to put a signature. If there was a gap of 10 years between the date of manufacture of ink or pen, and the date on which, the signature was put or document was written, the document cannot be said to have been executed or signed on the date of manufacture of ink or pen. It is only in certain forensic cases, that such questions may become relevant. The trial Court has taken correct view of the matter and dismissed the application.”

8. As compared to the decisions **Uppu Jhansi Lakshmi Bai** (1 supra) and **Namineni Audi Seshaiiah** (2 supra), I am of opinion that the judgment of the Supreme Court referred in **Shashi Kumar Banerjee** (3 supra) as well as reasoning in judgment in **Kambala Nageswara Rao** (4 supra) are more persuasive; and that the chemical tests to determine age appear to be a mere excuse to make a guess and would not furnish any reliable data upon which a definite opinion can be based. There is also confusion created by the date when the ink used in the pen to make the handwriting was manufactured and the gap between the dates of manufacture of the ink of writing on a document using the said ink.

9. The trial Court has rightly followed the decision in **Kambala Nageswara Rao** (4 supra) and declined relief to the petitioner.

10. I see no error of jurisdiction in the order passed by the Court below warranting interfere by this Court under Article 227 of the Constitution of India.

11. Therefore, these Civil Revision Petitions are dismissed. No costs.

12. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 26-06-2019

Note :- L.R. Copy to be marked.

B/o.
Vsv

