

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

C.R.P.No.7734 of 2018

O R D E R:

This Revision is filed challenging the order dt.19.11.2018 in I.A.No.1551 of 2018 in O.S.No.83 of 2015 of the Judge, Family Court-cum-VI Additional District Judge, Khammam.

2. Petitioner herein is 1st defendant in the above suit. Respondent filed the said suit against the petitioner for specific performance of an Agreement of Sale said to have been executed by the petitioner on 06.06.2013.

3. Written Statement was filed by the petitioner denying execution of the said Agreement of Sale. Petitioner contended therein that one Adapa Satyanarayana had filed O.S.No.334 of 2008 on the file of Senior Civil Judge, Khammam against the petitioner and her husband for specific performance of a contract in respect of the same suit schedule property basing on a fabricated document dt.22.09.2008 said to have been executed by the respondent, as if it was executed by the petitioner and her husband, and the respondent, being younger brother of the petitioner's husband, under the guise of helping the petitioner, obtained signatures of the petitioner on some papers including stamp papers in 2008 representing that those papers are necessary for defending the suit O.S.No.334 of 2008; and the suit Agreement of Sale dt.06.06.2013 was created on such blank signed stamp papers purchased on 23.09.2008 by putting the

date dt.06.06.2013 and so relief of specific performance cannot be granted.

4. Pending the suit, petitioner filed I.A.No.1551 of 2018 under Section 45 of the Evidence Act, 1872 to send the said Agreement of Sale dt.06.06.2013 to any authorized Hand Writing Expert to ascertain the age of ink of the signature of the petitioner in the 1st and 2nd pages of the document and to give opinion as to whether the said signature was put in 2008 or 2013.

5. This application was opposed by the respondent, who contended that the application itself is not maintainable.

6. By order dt.19.11.2018, the Court below dismissed the said I.A. It observed that, if the petitioner's case is that her signature on blank stamp papers were allegedly obtained in connection with O.S.No.334 of 2008, burden is on the petitioner to prove the same by examining a witness. It also took note of the conduct of the petitioner in denying her own signature on her Vakalat during her cross-examination. The Court observed that it would not be possible for an Expert to ascertain the age of the ink when there is a time gap of only 5 years and if really the time gap is more than 5 years, it might be possible. It also observed that having admitted her signature on Ex.A1 Agreement of Sale, she has to prove that they were obtained in 2008 and she cannot depend upon expert's opinion.

7. Assailing the same, this Revision is filed.

8. Though counsel for petitioner sought to contend that the order passed by the Court below is erroneous and requested to set aside the same, I am of the opinion that the reasoning given by the Court below in rejecting the application i.e., burden is on the petitioner to establish that her signatures were obtained in 2008 in connection with O.S.No.334 of 2018 and that age of the ink cannot be ascertained if the signature is only of 5 years old and not for a longer period of more than 10 years, is unexceptionable and cannot be found fault with. Therefore, I see no merit in this Revision.

9. Accordingly, this Civil Revision Petition is dismissed. No order as to costs.

10. Consequently, Miscellaneous petitions pending if any shall stand dismissed.

M.S. RAMACHANDRA RAO, J

28th January, 2019.

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