

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

Civil Revision Petition No.139 of 2020

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.10.12.2019 passed in Interlocutory Application No.1597 of 2019 in Interlocutory Application No.1519 of 2018 in Original Suit No.434 of 2015.

2. The petitioners herein are plaintiffs in the above suit.
3. The said suit was filed by petitioners for declaration of their title of the 1st petitioner to the plaint 'A' Schedule Shop and for recover of vacant possession thereof after vacating the respondents; and also for declaration of title of 2nd petitioner in respect of plaint 'B' Schedule Shop and for recovery of its vacant possession. *Mesne* profits have also been sought for in respect of 'A' and 'B' Schedule properties.
4. In the plaint, it is the contention of petitioners that Rental Note dt.19.01.2002 was executed by the 2nd respondent in favour of father of petitioners.
5. This was denied by respondents who also pleaded title allegedly to both the plaint 'A' and 'B' Schedule properties.

6. The said Rental Note was marked as Ex.A.28 by the petitioners; and when it was confronted to D.W.1, he refused to admit the signature of 2nd respondent / 2nd defendant thereon.

7. Thereafter, Interlocutory Application No.1519 of 2018 was filed by the petitioners before the Court below to send the original of Ex.A.28-Rental Note to an expert to compare the signatures of 2nd respondent thereon with the admitted signatures of 2nd respondent on admitted documents which were to be confronted by the petitioners.

8. This application was allowed by the Court below.

9. The document-in-question was referred to Central Forensic Science Laboratory (C.F.S.L.), at Hyderabad for comparing the signatures of 1st respondent on his *Vakalat* and Written Statement.

10. But, a report was received from C.F.S.L. on 08.04.2019 which was inconclusive and the expert said that he required more specimen signatures and more admitted signatures for him to give any categorical opinion on the document.

11. In view of the said report, the petitioners filed Interlocutory Application No.1597 of 2018 to send the Rental Note to some other handwriting expert for comparison with the signatures of the 2nd respondent contained in the *Vakalat* dt.29.09.2015 and Written Statement dt.19.09.2016, and to give expert opinion in the matter.

12. By order dt.10.12.2019, the Court below dismissed the said I.A. It held that a second application for sending the document to an expert is not maintainable when there is already an order passed in Interlocutory Application No.1519 of 2018 to the same effect. It also observed that the petitioners did not supply the requisite documents sought by the C.F.S.L., and that it is not proper to send the document to a private expert for his opinion.

13. Assailing the same, the present Civil Revision Petition is filed.

14. Though the counsel for petitioners sought to contend that petitioners would suffer grave prejudice if the document-in-question is not referred to another expert, I am of the opinion that the suit having been filed for declaration of title and recovery of possession by the petitioners, they must establish their title to the property in order to get relief of recovery of possession.

15. It is not in dispute that the respondents are contesting title of the petitioners. In these circumstances, even if the Rental Note is not sent to an expert again for a fresh opinion, no prejudice would be caused to the petitioners since the application of petitioners to establish their title to the property would continue and they would have to discharge the said burden in the suit.

16. In this view of the matter, I do not wish to interfere with the order passed by the Court below in exercise of the power conferred in this Court under Article 227 of the Constitution of India.

17. Accordingly, the Civil Revision Petition fails and it is dismissed at the stage of admission. No order as to costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 30.01.2020

Ndr/*

