

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

**THURSDAY ,THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION NO: 312 OF 2022

Petition under Article 227 of the Constitution of India, aggrieved by the order dated 31.01.2022 in I.A. No. 26 of 2019 in O.S. No. 258 of 2015 on the file of the Court of the III Addl.District Judge, Ranga Reddy District at L.B. Nagar.

Between:

N.V. Chandra Mohan Rao, S/o. Late Sanyasi Naidu, Age 65 years, Occ Legal Practitioner, R/o. M I G-493 Baba Metta, Vijayanagaram, Vijayanagaram District.

...PETITIONER

AND

Boinapally Srikanth, S/o.Mohan Rao, Age 36 years, Occ Business, R/o.H.No.4-1-92/5, Bhavani Nagar, Nacharam, Rangareddy District. Karimnagar.

...RESPONDENT

IA NO: 1 OF 2022

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to grant stay of all further proceedings in O.S.No.258/2015 on the file of III Addl. District Judge, Rangareddy at L.B. Nagar, pending disposal of the above CRP.

Counsel for the Petitioner : SRI. J SREENIVASA RAO, ADVOCATE

Counsel for the Respondent : NON APPEARED

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

CIVIL REVISION PETITION NO.312 OF 2022

ORDER:

Aggrieved by the order dated 31.01.2022 passed in I.A.No.26 of 2019 in O.S.No.258 of 2015 on the file of the Court of III Additional District Judge, Ranga Reddy District at L.B. Nagar, this Civil Revision Petition is filed.

I.A.No.26 of 2019 is filed under Sections 45 and 73 of the Indian Evidence Act, 1872 ("the Act, 1872" for brevity), to send Ex.P.1-promissory note dated 15.11.2013 to the Handwriting Expert along with admitted signature of the petitioner and his handwriting note for obtaining report.

Learned counsel for the petitioner submits that the respondent-plaintiff alleged that the promissory note is scribed by the petitioner-defendant, which the petitioner disputes and submits that the petitioner has not admitted the signature on the document and as such intended to send the same for comparison to Handwriting Expert. It is further contended that the Court below ought to have send Ex.P.1 to the Handwriting Expert for opinion but the Court below has erroneously dismissed the application. He also

submits that the Court below should have send Ex.P.1 to Handwriting Expert along with the admitted handwriting of the petitioner, which plea is also erroneously negated. He also submits that P.W.1; in his cross examination, has also stated that he has no objection for sending Ex.P.1- promissory note to Handwriting Expert.

In this case, it is to be seen that suit is for recovery of money basing on promissory note-Ex.P.1. Even according to the learned counsel for the petitioner, petitioner has not disputed signature on Ex.P.1 but only writing in Ex.P.1 is disputed. Section 73 of the Evidence Act reads as under:

"Comparison of Signature, writing or seal with others admitted or proved:- In order to ascertain whether a signature, writing or seal is that of the person by whom it purports to have been written or made, any signature, writing, or seal is that of the person by whom it purports to have been written or made, any signature, writing, or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing, or seal has not been produced or proved for any other purpose. The Court may direct any person present in Court to write any words or figures for the purpose of enabling the Court to

compare the words or figures so written with any words or figures alleged to have been written by such person."

As mentioned above, in case the Court comes to the conclusion that Court is unable to compare the handwriting, the Court can always go for the opinion of the expert and disposal of the application will not come in the way of the Court for getting the opinion regarding handwriting expert on Ex.P.1. The Court would compare the signatures only if evidence of both the parties is over and in this case, that stage has not come. As such the application filed under Sections 45 and 73 of the Evidence Act is misconceived. The observations made in I.A.No.26 of 2019 for the purpose of deciding the said I.A. would not be final and the same can always be agitated after adducing evidence. In view of the same, I do not find any infirmity in the order of the Court below.

Subject to the above observations, the Civil Revision Petition is disposed of. It is always open for the Court to compare the handwriting with the admitted handwriting on Ex.P.1. before judgment is rendered and in case of any

such requirement, Court can always send the document to expert for his opinion.

There shall be no order as to costs.

Miscellaneous applications, if any, pending shall stand closed.

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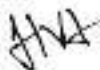
SD/- T. TIRUMALA DEVI
ASSISTANT REGISTRAR


SECTION OFFICER

To,

1. The Ill Addl. District Judge, Ranga Reddy District at L.B. Nagar
2. One CC to SRI. J SREENIVASA RAO Advocate [OPUC]
3. Two CD Copies
4. One Spare Copy

S. D



HIGH COURT

DATED : 24/02/2022

ORDER

CRP. No. 312 of 2022



**DISPOSING OF THE CIVIL REVISION PETITION
WITHOUT COSTS**

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7/7/22
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