

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**MONDAY, THE THIRTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE A.ABHISHEK REDDY

CIVIL REVISION PETITION NO: 406 OF 2023

Petition under Article 227 constitution of India against the Order dated 6-12-2022 in IA no. 702 of 2022 in OS No. 11 of 2017 on the file of the Court of the Chiaman land Reforms Appellate Tribunal cum I Additional District Judge Hanumakonda.

Between:

Gaddam Laxminarsaiah, S/o Venkatadri Aged about. 69 Yrs, Occ. Retired Employee R/o H.No.2-9-322, Snehanagar, Hanumakonda, Warangal District

...PETITIONER/DEFENDANT NO.1

AND

1. Vallala Saraswathi, W/o Bhaskar Aged about. 60 Yrs, Occ. Housewife R/o H.No.2-9-254, Vikasnagar, Hanumakonda, Warangal

...RESPONDENT/PLAINTIFF

2. Utkam Deepak, S/o Narsaiah aged about. 42 Yrs, Occ. Business R/o H.No.2-9-322/1, Snehanagar, Hanumakonda, Warangal District

...RESPONDENT/DEFENDANT NO.2

CRPMP/IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased To stay the order dt.06.12.2022 passed in I.A.No.702 of 2022 in O.S.No.11 of 2017 on the file of the learned Chairman, Land Reforms Appellate Tribunal-Cum-I-Additional District Judge, Hanumakonda, pending disposal of the C.R.P.

Counsel for the Petitioner: SRI VEERA BABU GANDU

Counsel for the Respondents 1: SRI K VENUMADHAV

Counsel for the Respondents 2: NA

The Court made the following: ORDER

HONOURABLE SRI JUSTICE A.ABHISHEK REDDY

Civil Revision Petition No.406 of 2023

ORDER:

Challenging the order dated 06.12.2022 passed in I.A.No.702 of 2022 in O.S.No.11 of 2017 by the learned Chairman, Land Reforms Appellate Tribunal-cum-I Additional District Judge, Hanumankonda, the present Civil Revision Petition is filed by the petitioner.

2. Heard the arguments of Sri Veera Babu Gandu, learned counsel for the petitioner/defendant No.1 and Sri K. Venumadhav, learned counsel for the respondent No.1/plaintiff.

3. The learned counsel for the petitioner has stated that suit promissory note is a forged document and therefore, the petitioner has filed an Interlocutory Application seeking to send the said document to a handwriting Expert but the trial Court without taking into consideration the provisions of Indian Evidence Act, 1872, has in a mechanical manner dismissed the Interlocutory Application filed by the petitioner. Learned counsel has stated that once the signature on the suit document is disputed by the party, the same ought to have been sent to a handwriting Expert and basing on the report of the handwriting Expert, the issue can be

decided by the Trial Court instead of conducting a full-fledged trial. To buttress his case, the learned counsel relied upon the following judgments:

1) **Thiruvengada Pillai v. Navaneethammal**¹

2) **N. Chinnaswamy v. PS Swaminathan**²

4. Per contra, the learned counsel for the respondent No.1 vehemently opposed the maintainability of the present Civil Revision Petition stating that the document which is sought to be sent to the Handwriting Expert is an incomplete document and the trial Court rightly took the said fact into consideration and rightly dismissed the I.A filed by the petitioner. The learned counsel for the respondent No.1 further stated that the suit is still at the stage of trial and the evidence of parties is yet to be adduced and that the I.A filed by the petitioner is premature one and therefore, the learned counsel prayed this Hon'ble Court to dismiss the present Civil Revision Petition.

5. In view of the above rival submissions, the point that arises for determination in this C.R.P is:

"Whether there are merits in this Civil Revision Petition to allow, as prayed for?"

¹ AIR 2008 SC 1541

² 2006 (4) CT 850

6. **POINT:** A perusal of the order dated 06.12.2022 passed in I.A.No.702 of 2022 in O.S.No.11 of 2017 by the trial Court shows that the trial Court duly taking into consideration that Ex.A.1-promissory note does not contain the full signature of the executant but only a partial signature is there. It is stated that the signature of the executant was signed across three Revenue Stamps but two of the adhesive revenue stamps had fallen off and therefore, a part of the signature on one revenue stamp is available. That the Trial Court duly taking into account the said fact was of the opinion that part signature on Ex.A.1-promissory note cannot be compared with the full signature of defendant No.1 as it is not a whole signature. Even though the petitioner/defendant No.1 has taken a specific stand that the signature contained in the promissory note is not his signature and unless and until the same is sent to the Expert opinion, the truth or otherwise of the claim made by the respondent No.1/plaintiff cannot be ascertained.

7. In **Thiruvengada Pillai's** case (1 supra), relied upon by the learned counsel for the petitioner, the Hon'ble Apex Court observed that when the defendant denies his signature in a document, which is sought to be relied upon by the plaintiff in the

suit, the burden is on the plaintiff to prove that the defendant had executed the said document and the burden is not on the defendant to prove the negative.

8. In **N. Chinnaswamy's** case (2 supra), relied upon by the learned counsel for the petitioner, the learned Single Judge of Madras High Court observed that when the defendant denies the signature in a particular document which is very much relied on by the plaintiff, it is for the plaintiff to take steps for examination of the disputed signature by sending the document to a handwriting expert.

9. There is no demur with regard to the above preposition of law. In the instant case, the petitioner/defendant No.1 has filed the Interlocutory Application to send Ex.A.1-promissory note to the expert opinion but not the respondent No.1/plaintiff. The burden is on the plaintiff to prove his case and therefore, the said decisions are not helpful to the case of the petitioner/defendant No.1. Admittedly, in the present case, the suit is at the nascent stage i.e, only evidence of plaintiff is let in. It is for the plaintiff to prove his case by leading cogent and convincing evidence. This Court is of the opinion that application filed by the petitioner is a misconceived and premature one. Moreover, as rightly held by the

trial Court, the signature on Ex.A.1-promissory note is only half signature and the same cannot be compared with the admitted signature of the petitioner/defendant No.1. In view of the above circumstances, the reasons given by the Trial Court cannot be found fault with and therefore, this Court is not inclined to set aside the impugned order dated 06.12.2022 passed in I.A.No.702 of 2022 in O.S.No.11 of 2017. However, liberty is granted to the petitioner to file an application fresh if he is so advised, after the trial is completed.

10. With the above observations, this Civil Revision Petition is disposed of.

The miscellaneous applications pending if any shall stand closed. There shall be no order as to costs.

**SD/- N.SRIHARI
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman Land Reforms Appellate Tribunal cum-I Additional District Judge, Hanumakonda.
2. One CC to SRI VEERA BABU GANDU Advocate [OPUC]
3. One CC to SRI K VENUMADHAV Advocate [OPUC]
4. Two CD Copies

EDS

BSR

HIGH COURT

DATED:13/02/2023

ORDER

CRP.No.406 of 2023



CRP IS DISPOSED OF NO COSTS

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09/03/23
BSR