



2022:APHC:6990

HIGH COURT OF ANDHRA PRADESH
WEDNESDAY ,THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND TWENTY TWO

PRSENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA
CIVIL REVISION PETITION NO: 1361 OF 2021

Between:

1. LAKKAPAMULA RANI W/o Ravi Kumar, 36 years, Hindu, House Maker,
R/o Isukapatla Pangidi Village, Kovvuru Mandal, West Godavari District.

...PETITIONER(S)

AND:

1. MANDA BATASARI S/o Kotaiah, 44 years, Hindu, Cultivation, R/o
Ramachandrapuram Village, Gannavaram Mandal, Krishna District,
Nuzvid.

...RESPONDENTS

Counsel for the Petitioner(s): CH B R P SEKHAR

Counsel for the Respondents: V SANTHISREE

The Court made the following: ORDER



HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI

CIVIL REVISION PETITION No.1361 OF 2021

Between:

Lakkapamula Rani, W/o Ravi Kumar,
36 years, Hindu, House Maker,
R/o Isukapatla Pangidi Village,
Kovvuru Mandal, West Godavari
District, Kovvuru PJCJC.

.... Petitioner

Versus

Manda Batasari, S/o Kotaiah, 44 years,
Hindu, Cultivation, R/o Ramachandrapuram
Village, Gannavaram Mandal, Krishna District,
Nuzvid.

.... Petitioner

DATE OF ORDER PRONOUNCED: 23-03-2022

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals. Yes/No
3. Whether Their ladyship/Lordship wish
to see the fair copy of the Judgment? Yes/No

NAINALA JAYASURYA, J



*THE HON'BLE SRI JUSTICE NINALA JAYASURYA

+ **CIVIL REVISION PETITION No.1361 OF 2021**

%Date: 23.03.2022

Lakkapamula Rani - - - Petitioner

and

\$ Manda Batasari - - - Respondents

! Counsel for the Petitioner : Mr.Ch.B.R.P. Sekhar

^ Counsel for Respondents : Smt.Sanathi Sree Vallabhaneni

< **GIST : --**

> **HEAD NOTE : --**

? **Cases referred :** --1) C.R.P.No.2121 of 2016 dt.07.12.2016

2) 2016(2) ALT 248

**THE HON'BLE SRI JUSTICE NINALA JAYASURYA****CIVIL REVISION PETITION No.1361 of 2021****ORDER:**

The present Civil Revision Petition is filed aggrieved by the Orders passed in I.A.No.268 of 2021 in O.S.No.244 of 2014 on the file of the Senior Civil Judge, Nuzvid, Krishna District.

2. Heard the learned counsel for the petitioner Mr.Ch.B.R.P. Sekhar and the learned counsel for the respondent Smt.Santhi Sree Vallabhaneni.

3. The petitioner herein is the defendant in the above referred suit.

The respondent/plaintiff filed the above said suit seeking Specific Performance of an Agreement of Sale dated 20.01.2014 and for other reliefs. In the written statement a plea was taken that the Agreement of Sale was fabricated by forging the signatures of the petitioner/defendant and her husband. After the completion of the respondent's/plaintiff's arguments in the said suit and when the matter is coming up for petitioner's/defendant's arguments, I.A.No.268 of 2021 was filed by the petitioner/defendant under Section 45 of the Indian Evidence Act R/w Section 151 of the Code of Civil Procedure seeking a direction to send Ex.A.1 Agreement of Sale dated 20.01.2014 and the papers on which the signatures of the petitioner/defendant would be taken in open Court and other documents containing her signatures i.e., the suit summons, vakalat, postal acknowledgement, written statement etc., to the Government Handwriting Expert for comparison of the said signatures and to give expert's opinion. The said application was resisted by the respondent/plaintiff by filing a counter. The learned Senior Civil Judge after considering the matter, by an order dated 07.10.2021 dismissed the said application. Hence, the present Civil Revision Petition.



4. The learned counsel for the petitioner, *inter alia*, contended that the alleged Agreement of Sale was executed on 20.01.2014 and the suit was filed on 21.07.2014 and thereafter written statement was immediately filed on 05.09.2014. He submits that a specific plea was taken in the written statement that the alleged Agreement of Sale is a forged document, not executed by the petitioner/defendant. He submits that in the light of the said categorical stand of defence, it is all the more appropriate to refer the alleged Agreement of Sale for expert's opinion, so that the truth would come out. He submits that no prejudice would be caused to the respondent/plaintiff as the signatures would be taken in the open Court and the same would be sent along with the other documents which are already available before the Court i.e., suit summons, vakalat, written statement, postal acknowledgements for comparison to the expert. He further submits that the report of the expert on comparing the signatures on the documents referred to him would aid the Court in evaluation of evidence and in the event of any adverse opinion, it would be open to the aggrieved party to challenge the same. He submits that the learned Senior Civil Judge instead of considering the application in the correct perspective went wrong in dismissing the same, on the ground that the same was not filed at an appropriate stage, but belatedly after completion of the arguments of the respondent/plaintiff, which is totally unsustainable. He submits that it is settled Law that an application seeking expert's opinion under Section 45 of the Indian Evidence Act can be filed at any stage of the Trial, even after conclusion of the arguments and ignoring the said aspect, the learned Trial Court had dismissed the I.A, which constitutes failure to exercise jurisdiction vested in it. He submits that mere delay cannot be a ground for rejecting the application seeking



expert's opinion and the learned Trial Court, in the event was of the opinion that there was delay, the same should have been condoned by imposing costs. Making the said submissions, the learned counsel seeks setting aside of the Order of the learned Trial Court and prays for allowing the Civil Revision Petition.

5. On the other hand, the learned counsel for the respondent/plaintiff refuted the submissions made on behalf of the petitioner. She submits that the Order of the learned Trial Court is well considered and based on sound reasoning. She submits that as rightly observed by the learned Trial Court, the petitioner/defendant was dragging on the matter without advancing the arguments and took as many as six adjournments for arguments on behalf of the petitioner/defendant. She submits that instead of proceeding with the arguments, the petitioner/defendant came up with the above I.A only with a view to prolong the disposal of the suit, with evil motives. While submitting that the learned Trial Court had assigned cogent reasons for rejection of the I.A filed by the petitioner/defendant and the Order does not suffer from any perversity or irregular exercise of jurisdiction she submits that there are no valid grounds calling for interference by this Court.

6. This Court has considered the submissions made by the learned counsel for both sides. On a scrutiny of the contentions, the point that falls for consideration by this Court is as to whether the Order of the Trial Court dismissing the application under Section 45 of the Indian Evidence Act is justified in the facts and circumstances of the case?

7. As seen from the pleadings available on record with reference to the plaint averments and the relief sought, the petitioner/defendant filed her written statement denying the execution of the Agreement of Sale



dated 20.01.2014. It is her case that the said Agreement was fabricated by forging the signatures of the petitioner/defendant. To substantiate her stand, the petitioner/defendant sought for sending all the signatures obtained in the open Court along with the suit summons, vakalat, written statement etc., for comparison to the expert. However, the said application was dismissed primarily on the premise that the application was filed after closure of plaintiff's arguments and the matter is coming up for arguments of the defendants and was adjourned more than six times. In so far as the said view of the learned Trial Court with regard to the delay is concerned, the same cannot be accepted.

8. Though the Order under Revision is liable for interference on that score, the direction sought, for referring the documents to expert for opinion for comparison of signatures cannot be granted in the light of the expression of this Court in **P.Padmanabhaiah vs. G.Srinivasa Rao**¹, wherein the learned Judge dealt with a matter regarding an application of the defendant in the suit to send the vakalat and written statement containing her signatures along with the promissory note to handwriting expert for comparison of signatures of the petitioner/defendant on the vakalat and written statement with the signatures said to be of him and furnish a report with opinion as to the genuineness or otherwise of the disputed signatures on the exhibits. The learned Judge while interfering with the orders of the Trial Court in allowing the application, had dealt with the matter with reference to comparison of signatures on vakalat and written statement with the disputed documents and *inter alia*, held as follows:-

¹ C.R.P.No.2121 of 2016 dt.07.12.2016



"In the well considered view of this Court, the defendants signatures on the Vakalat and the Written Statement cannot be considered as signatures of comparable and assured standard as according to the plaintiff even by the date of the filing of the vakalat the defendant is clear in his mind about his stand in regard to the denial of his signatures on the suit promissory note and the endorsement thereon and as the contention of the plaintiff that the defendant might have designedly disguised his signatures on the Vakalat and the Written Statement cannot be ruled out prima facie. The view point being projected by the plaintiff that if the defendant is called upon to furnish his signatures in open Court, he might designedly disguise his signatures while making his signatures on papers in open court is also having considerable force and merit. Unless the defendant makes available to the Court below any documents, with his signatures, of authentic and reliable nature more or less of a contemporaneous period, and unless such documents are in turn made available to the expert along with the suit promissory note, the expert will not be in a position to furnish an assured opinion, in the well considered view of this Court.There is no point in sending to an expert the documents of doubtful nature and character and add one more piece of unreliable evidence and burden the record by wasting the time and money of the parties. When there are no signatures of comparable and assured standard on the material record before the trial Court, it is unsafe to obtain the signatures of the defendant in open Court and send the said signatures and also his vakalat and written statement to an expert for obtaining his opinion after comparison of the signatures thereon with the disputed signatures on the suit promissory note, as any such opinion obtained from a handwriting expert on such material is not going to be of any help to the trial Court in effectively adjudicating the lis more particularly in the light of the admitted legal position that expert's opinion evidence as to handwriting or signatures can rarely, if ever, take the place of substantive evidence."

9. In the light of the above well considered view of the learned Judge, this Court is not inclined to interfere with the order passed by the learned Trial Judge, though the view taken with regard to stage of filing of the application is contrary to the judgment of the Full Bench in **Bande Siva Shankara Srinivasa Prasad vs. Ravi Surya Prakash Babu**². The Civil Revision Petition therefore fails and the same is liable to be dismissed.

10. Accordingly, the Civil Revision Petition is dismissed. No order as to costs.

As a sequel, miscellaneous applications, if any, pending shall stand closed.

NINALA JAYASURYA, J

Date: .03.2022

IS



THE HON'BLE SRI JUSTICE NINALA JAYASURYA

Civil Revision Petition No.1361 of 2021

Date: .03.2022

IS