



HIGH COURT OF ANDHRA PRADESH
WEDNESDAY ,THE THIRTEENTH DAY OF FEBRUARY
TWO THOUSAND AND NINETEEN

PRSENT

THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO
CIVIL REVISION PETITION NO: 6157 OF 2018

Between:

1. G V RAMI REDDY S/o Late G.Pulla Reddy, Aged about 55 years, R/o Rayachoti, Kadapa District.

...PETITIONER(S)

AND:

1. D MOHAN RAJU S/o Late D.Venkatrama Raju, Aged about 54 years, Occ Business, R/o Flat No.304, Kota Elision Towers, Kenedy Nagar, Old Tiruchanur Road, Tirupati, Chittoor District.

...RESPONDENTS

Counsel for the Petitioner(s): MAHESWARA RAO KUNCHEAM

Counsel for the Respondents: NAGESWARA RAO V

The Court made the following: ORDER



2019:APHC:15820

HIGH COURT OF ANDHRA PRADESH

WEDNESDAY, THE THIRTEENTH DAY OF FEBRUARY TWO THOUSAND
AND NINETEEN

**:PRESENT:
THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**



CIVIL REVISION PETITION NO: 6157 OF 2018

Civil Revision Petition under Article 227 of the Constitution of India, aggrieved by the orders dated 13.08.2018 passed in I.A.No.874 of 2018 in O.S.No.253 of 2015 on the file of III Additional District Judge, Tirupati, Chittoor District.

Between:

1. G V Rami Reddy, S/o Late G.Pulla Reddy, Aged about 55 years, R/o Rayachoti, Kadapa District.

..... Revision Petitioner/Petitioner/1st Defandant

AND

1. D Mohan Raju, S/o Late D.Venkatrama Raju, Aged about 54 years, Occ Business, R/o Flat No.304, Kota Elision Towers, Kenedy Nagar, Old Tiruchanur Road, Tirupati, Chittoor District.

..... Respondent/Repondent/Plaintiff

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the memorandum of grounds filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings in O.S.No. 253 of 2015 on the file of the III Additional District Judge, Tirupati, Chittoor District.

The Civil Revision Petition coming on for hearing, upon perusing the grounds and the affidavit filed in support thereof and upon hearing the arguments of Sri Maheswara Rao Kuncheam, Advocate for the Petitioner and Sri V.Nageswara Rao, Advocate for the Respondent

the Court made the following **Order:**



HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

CIVIL REVISION PETITION No.6157 OF 2018ORDER:

1. The challenge in this Civil Revision Petition is the order, dated 13.08.2018, in I.A. No.874 of 2018 in O.S. No.253 of 2015, passed by the learned III Additional District Judge, Tirupati, dismissing the Petition filed by the petitioner/defendant under Section 45 of the Indian Evidence Act, 1872 seeking to send Ex.A-1 promissory note to F.S.L. to ascertain the age of the signature and the contents therein.
2. The defendant filed the said Petition on the contention that he did not execute Ex.A-1 pronote on 20.12.2012 as claimed by the plaintiff, and on the other hand on a different occasion, he borrowed Rs.1,00,000/- from the plaintiff and plaintiff obtained his signature on a blank promissory note on 27.09.2008 and also obtained a cheque for security purpose and though the defendant discharged the said debt in March, 2009, the plaintiff returned the cheque but did not return the promissory note and he pressed into service the said blank promissory note and created Ex.A-1 with the date 20.12.2012 and filed the instant Suit. Thus, in essence, the defendant contends that Ex.A-1 was signed in the year 2008 but not in 2012 and for determination of the age of signature and contents in Ex.A-1, the document be referred to F.S.L.
3. The trial Court mainly relying upon the decision, cited by the plaintiff, reported in *Polana Jawaharlal Nehru Vs. Maddirala Prabhakara Reddy*¹, dismissed the Petition. In that case, Justice V.Ramasubramanian, learned Judge of the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, observed that no useful purpose would be served by referring the

¹ 2017 (3) ALD 579



document to the handwriting expert as it was highly doubtful; that it was possible for a handwriting expert to fix the age of the ink, where the dispute with regard to the age was only 4 years; at least if the time gap was about 30 to 40 years, it might perhaps be possible for the handwriting expert to fix the age but when the time gap pleaded was just about 4 years, it would not be possible to fix the age. The trial Court Judge, thus, dismissed the Petition.

4. Heard Sri Maheswara Rao Kunchem, learned counsel for the petitioner, and Sri V.Nageswara Rao, learned counsel for the respondent.

5. Now the points that arise for determination in this Civil Revision Petition are:

1. Whether Forensic Expertise to determine the age of ink/pen is available in our country to refer the alleged document?

2. If point No.1 is held affirmatively, whether such determination of age of ink/handwriting is suffice to upheld the contention of the petitioner/defendant, in the instant case?

6. **POINT No.1:** It is to be noted that in the decision reported in *R.Jagadeesan Vs. N.Ayyasamy*², a learned Judge of Madras High Court ascertained from Assistant Director, Document Division, Forensic Science Department, Government of Tamilnadu, Chennai, that there is one institution known as Nutron Activation Analysis, Bhabha Atomic Research Centre (BARC), Mumbai, where there is facility to find out the approximate range of the time during which the writings would have been made and it is a Central Government Organization. Basing on the observation made by the learned Judge in *Jagadeesar*², Dr.Justice B.Siva Sankara Rao,

² MANU/TN/1974/2010 : 2010,1 CTC 424



learned Judge of the High Court of Judicature at Hyderabad, in his decisions reported in *T. Rajalingam Vs. State of Telangana and others*³ and *Namineni Audi Sessaiah Vs. Numburu Mohan Rao*⁴ ordered that the documents therein be sent to the aforesaid organization for determination of age of the ink.

7. Thus, from the above, it is clear that there is an organization called Nutron Activation Analysis, BARC, Mumbai, which is a Central Government Organization, which undertakes the task of determining the age of ink/writing of a document.

8. It should be noted that the decision in *Rajalingam*³, which is an earlier decision, was not referred in *Polana Jawaharlal Nehru's* case, which was relied upon by the trial Court. Therefore, the view expressed in *Polana Jawaharlal Nehru's* case cannot be taken as precedent. This point is, thus, answered affirmatively.

9. **POINT No.2:** Since point No.1 is held affirmatively, it has now to be seen whether ascertaining the age of the ink/writing on the document is suffice to uphold the contention of the defendant. Of course, I must admit that this aspect relates to the appreciation of evidence on the part of the trial Court. However, I venture to frame this point to caution the trial Court in the light of a crucial observation made by a learned Judge of the High Court of Andhra Pradesh in *Kambala Nageswara Rao Vs. Kesana Balakrishna*⁵, wherein it was observed thus:

"4.Even while not disputing his signature on the promissory note, the petitioner wanted the age thereof to be determined. Several complications arise in this regard. The mere determination of the age, even if there exists any facility for that purpose; cannot, by itself, determine the age of the signature. In a given case, the ink, or for that matter, the pen,

³ 2017 (3) ALT (Cri.) 203 (AP)

⁴ (2018 (6) ALD 751)

⁵ (AIR 2014 AP 37)



may have been manufactured several years ago, before it was used, to put a signature. If there was a gap of 10 years between the date of manufacture of ink or pen, and the date on which, the signature was put or document was written, the document cannot be said to have been executed or signed on the date of manufacture of ink or pen.”

10. Therefore, in a given case, though the ink or a pen was manufactured in yester years, there is a possibility that a person may either deliberately or un-knowingly use such ink/pen to make a writing or signature several years after its manufacture. In such an event, mere determination of the age of ink/writing by an expert will not clinch the issue as to when exactly the maker has written/signed the document. Therefore, the Courts must take note of this aspect while appreciating the rival contentions. This point is answered, accordingly.
11. Thus on a conspectus of the above findings, the trial Court is not right in rejecting the petitioner's request to refer the document to the expert, since the required expertise is available, as noted *supra*.
12. In the result, the Civil Revision Petition is allowed by setting-aside the impugned order and, consequently, I.A. No.874 of 2018 is allowed and the trial Court is directed to refer Ex.A-1 promissory note to Nutron Activation Analysis, BARC, Mumbai, for determining the age of signature of the defendant at his own expenses. No order as to costs.
13. As a sequel, miscellaneous petitions, if any pending, shall stand closed.

Sd/- K.JAGAN MOHAN
ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

One Fair Copy to the Hon'ble Sri Justice U.DURGA PRASAD RAO
(For His Lordship's Kind Perusal)

To

1. The III Additional District Judge, Tirupati, Chittoor District.
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3. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.
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5. One CC to Sri Maheswara Rao Kuncheam, Advocate (opuc)
6. One CC to Sri V.Nageswara Rao, Advocate (opuc)
7. Two C.D. Copies.

MRC



HIGH COURT

DATED: 13-02-2019

18/2/2019
OC

2019:APHC:15820

Rs. 750

ORDER

CRP NO.6157 OF 2018

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ALLOWING THE CIVIL REVISION PETITION
WITHOUT COSTS.

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