

M.Pentaiah Vs. B.Parameshwar

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Court : Andhra Pradesh

Decided On : Feb-03-2012

Judge : C.V.Nagarjuna Reddy, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Order XVIII Rule 17; [Indian Evidence Act, 1872](#) - Section 45, 73.

Appeal No. : Civil Revision Petition No.200 of 2012

Appellant : M.Pentaiah

Respondent : B.Parameshwar

Advocate for Pet/Ap. : Ch.Anjaneyulu, Adv.

Judgement :

C.V.Nagarjuna Reddy, J.

ORDER

1. This Civil Revision Petition arises out of Order, dated 09-09-2011, in IA.No.1005 of 2010 in OS.No.3884 of 2009, on the file of the learned XIX Junior Civil Judge, City Civil Court, Hyderabad. I have heard Sri Ch.Anjaneyulu, learned Counsel for the petitioner, and perused the record.

2. The petitioner is the defendant in the suit filed by the respondent for recovery of certain amount on a pronote (Ex.A.1). The petitioner entered defence, in which he has stated that even though he has signed on a blank pronote, its contents were subsequently filled and accordingly, Ex.A.1 was fabricated. After PW.2, who is stated to be the scribe, gave his evidence, the petitioner filed an application under Order XVIII Rule 17 of the Code of Civil Procedure, 1908 (for short 'the CPC') to recall PW.2 on the plea that the latter needs to be cross-examined as he did not know Telugu. Accordingly, at the instance of the petitioner, PW.2 was recalled. During the course of his further cross-examination, PW.2 was made to read and write in Telugu. Thereafter, the petitioner filed IA.No.1005 of 2010, for sending Ex.A.1 for the opinion of a handwriting expert. After considering the above facts, the lower Court dismissed the application on the reasoning that unless the Court feels the necessity of sending the document for the opinion of the expert, there is no need for sending every document as a matter of course. The learned Junior Civil Judge further stated that the opinion of the expert constitutes only supporting material, which is not conclusive and binding on the Court. Having considered these reasons, I find myself in agreement with the opinion of the lower Court. Section 45 of the [Indian Evidence Act, 1872](#) (for short 'the Act'), recognizes the opinion of handwriting/fingerprint expert or other experts' opinions as relevant facts. Section 73 of the Act empowers the Court to form its own opinion on comparison of the signatures or thumb impressions. Unless the Court opines that, in a given case, the opinion of an expert is necessary, it need not refer every document to the expert's opinion on mere asking by one of the parties. In this view of the matter, I do not find any error jurisdictional or otherwise committed by the lower Court calling for interference of this Court in exercise of its revisional jurisdiction. Accordingly, the Civil Revision Petition is dismissed.

3. As a sequel, CMP No.294 of 2012, filed by the petitioner for interim relief, is disposed of as infructuous.