

T. Venkatswamy Vs. Agiru Pullaiah

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Court : Andhra Pradesh

Decided On : Aug-03-2012

Judge : N.R.L. Nageswara Rao

Appeal No. : C.R.P.No.3642 OF 2012

Appellant : T. Venkatswamy

Respondent : Agiru Pullaiah

Judgement :

(Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to stay all further proceedings in IA No.107 of 2012 in OS No.16 of 2010 on the file of Junior Civil Judge, Kollapur, Mahabubnagar District dated 20-6-2012 pending disposal of the above Civil Revision Petition.)

The revision is filed against the order in I.A.No.107 of 2012 in O.S.No.16 of 2010 on the file of the Junior Civil Judge at Kollapur.

2. The revision petitioner is the defendant. The suit was filed for recovery of money on the basis of a promissory note. The trial of the case was completed and the matter is coming for arguments. At that stage, the present application is filed for sending the suit document to the expert. The Court below has dismissed the application finding that the Court itself can compare signature under Section 73 of the Indian Evidence Act.

3. Naturally, delay in filing an application for expert is a good ground for rejection of the same. So also the comparison of the signatures by the Court itself is not generally warranted and unless there is expertise in comparison of the signatures, it cannot be resorted to. When such comparison is to be made, generally it shall be with the assistance. But, however, in this case, when there is oral evidence available on record, the Court may not be justified in intention to resort to comparison.

3. In this connection, it is useful to refer to a decision of the Hon'ble Supreme Court reported in Thiruvengadam Pillai Vs. Navaneethammal (2008(3) ALD 112 (SC), whereunder it was held that:

“16. While there is no doubt that Court can compare the disputed handwriting/ signature/ finger impression with the admitted handwriting/ signature/ finger impression, such comparison by Court without the assistance of any expert, has always been considered to be hazardous and risky. When it is said that there is no bar to a Court to compare the disputed finger impression with the admitted finger impression, it goes without saying that it can record an opinion or finding on such comparison, only after an analysis of the characteristics of the admitted finger impression and after verifying whether the same characteristics are found in the disputed finger impression. The comparison of the two thumb impressions cannot be casual or by a mere glance. Further, a finding in the judgment that there appeared to be no marked differences between the admitted thumb impression and disputed thumb impression, without anything more, cannot be accepted as a valid finding that the disputed signature is of the person who has put the admitted thumb impression. Where the Court finds that the disputed finger impression and admitted thumb impression are clear and where the Court is in a position to identify the characteristics of fingerprints, the Court may record a finding on comparison, even in the absence of an expert's opinion. But where the disputed thumb impression is smudgy, vague or very light, the Court should not hazard a guess by a casual perusal

17. The decision in Murari Lal⁴ and Lalit Popli⁵ should not be construed as laying a proposition that the Court is bound to compare the disputed and admitted finger

impressions and record a finding thereon, irrespective of the condition of the disputed finger impression. When there is a positive denial by the person who is said to have affixed his finger impression and where the finger impression in the disputed document is vague or smudgy or not clear, making it difficult for comparison, the Court should hesitate to venture a decision based on its own comparison of the disputed and admitted finger impressions. Further even in cases where the Court is constrained to take up such comparison, it should make a thorough study, if necessary with the assistance of Counsel, to ascertain the characteristics, similarities and dissimilarities. Necessarily, the judgment should contain the reasons for any conclusion based on comparison of the thumb impression, if it chooses to record a finding thereon. The Court should avoid reaching conclusions based on a mere casual or routine glance or perusal”.

4. Further, it is also useful to refer to the judgment reported in Y.Jogulamma @ Jyothi v. Chukkakula Kondamma and others (2011(6) ALD 741), wherein this Court held in Para No.24 as under:-

“So far as the comparison of the signatures or the thumb impression is concerned, such course has to be done sparingly. The Judge, who comes to an opinion after comparison, should also disclose his expertise and also give reasons for the conclusions. A mere statement that the Court is of the opinion that the thumb impressions or the signature appears to be similar is not proper since as an expert, whose evidence is to be assessed, the Judge, who is also giving his opinion, should mention the reasons”.

Therefore, in view of the above circumstances, I do not find any justifiable grounds to interfere with the order of the Court below.

5. Accordingly, the Civil Revision Petition is dismissed. No costs. Miscellaneous petitions, if any, filed in this petition shall stand closed.

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