

APHC010110912024



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

TUESDAY, THE SIXTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE



PRESENT

HON'BLE SMT JUSTICE SUMATHI JAGADAM

CIVIL REVISION PETITION NO: 483 OF 2024

Petition under Article 227 of the Constitution of India, is filed being aggrieved by the orders dated 30.11.2023 passed in IA. No.1085 of 2023 in O.S. No.111 of 2020 by the Court of Principle Junior Civil Judge, Gudivada.

Between:

Vetam Rekha, W/o. Late Satyanarayana, Aged about 45 years, Occ:
Properties, R/o. D.No.3-131, Moparru Village, Pedaparappudi Mandal,
Krishna District.

...Petitioner/Petitioner/Defendant

AND

Nagineni Rama Rao, S/o. Veeraiah, Aged about 80 years, Occ:
Agriculture, R/o. D.No.3-145, Moparru Village, Pedaparappudi Mandal,
Krishna District.

...Respondent/Respondent/Plaintiff

IA NO: 1 OF 2024

Petition under Section 151 CPC, is filed praying that, in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in O.S. No.111 of 2020, on the file of Principle Junior Civil Judge, Gudivada.

IA NO: 2 OF 2024

Petition under Section 151 CPC, is filed praying that, in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to extend the interim orders granted by this Hon'ble Court on 07.03.2024 in CRP.No. 483 of 2024.

Counsel for the Petitioner: Sri P.S.P. Suresh Kumar, Advocate

Counsel for the Respondent: Sri Naga Praveen Vankayalapati, Advocate

The Court made the following:

APHC010110912024



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

[3459]

(Special Original Jurisdiction)

**TUESDAY ,THE SIXTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

CIVIL REVISION PETITION No. 483 of 2024

Between:

Vetam Rekha

... Petitioner

and

Nagineni Rama Rao

... Respondent

Counsel for the petitioner : Sri P.S.P. Suresh Kumar

Counsel for the respondent : Sri Naga Praveen Vankayalapati

This Court made the following:

ORDER:

This revision petition is filed under Article 227 of the Constitution of India against the order dated 30.11.2023 passed in I.A.No.1085 of 2023 in O.S.No.111 of 2020 on the file of the Court of Principal Junior Civil Judge, Gudivada. The defendant filed this petition under Section 45 of the Indian Evidence Act, 1872 (for short "the Act") and Section 151 of CPC to send the suit promissory note to the handwriting expert to compare the signature of the petitioner/defendant with the admitted signature.

2. The plaintiff filed a suit to recover an amount of Rs. 5,55,200/- against the defendant based on a promissory note dated 15.02.2019. The defendant filed a written statement denying the claim and further asserted that she never executed any promissory note in favor of the plaintiff. The promissory note in question is alleged to be a forged document, and the signature on it does not belong to the defendant; instead, it was purportedly fabricated by the plaintiff, who allegedly witnessed the defendant's signature on a sale deed executed by the plaintiff.

3. Under those circumstances, the defendant filed I.A. No.1085 of 2023 under Section 45 of the Act and Section 151 of CPC with the abovementioned relief.



4. The plaintiff opposed the petition, refuting its contents and asserting that the defendant signed the promissory note in the presence of both the attester and the scribe. Additionally, it was noted that if the Court examines the defendant's signature as the attester in the submitted sale deeds, it will demonstrate that those signatures match with the defendant's signature.

5. After hearing both parties, the trial Court dismissed the petition, noting that although the petitioner denied her signature, she did not take any steps to produce the original document or any other document regarding her admitted signature as required by law. Furthermore, the petitioner has only submitted a registration extract of the sale deed containing her signature. However, sending this for comparison is insufficient, since it is impossible to compare the original signature with the signatures on photocopies. This is a well-established principle of law.

6. Aggrieved by the order, this revision petition has been filed.

7. The learned counsel for the petitioner/defendant contended that the trial Court dismissed the petition without giving opportunity for producing the contemporaneous document and without sending the extract of the sale deed for expert opinion and relied on the decisions of



this Court in **Jaladi Sathi Soluchana Vs. Koduri Raja Ravindra Babu**

(C.R.P.No.2568 of 2022, dated 06.11.2024) wherein it is held as follows:

"7. The only issue that falls for consideration in this Civil Revision Petition is whether the suit promissory note can be compared with the Pension Hand Book. A copy of the Pension Hand Book is filed along with the Civil Revision Petition. On perusal of the signature of the Petitioner on that Pension Hand book shows that the same is not a very reliable document as it is being maintained for the purpose of acknowledgement of the amount being paid by the authorities every month. Therefore, the Order of the trial Court is not warranting any interference.

8. As there is no objection to send the document for expert by Plaintiff/PW.1 himself, the petitioner is given liberty to file appropriate contemporary document having the signature of the Petitioner for sending the same to expert opinion within a period of two months from the date of receipt of a copy of the Order. On filing of such application by the Petitioner, the trial Court may consider and pass appropriate orders."

i) In **Akuthota Chandrasekhara Gupta Vs. Battula Krishna Rao**

(C.R.P.No.601 of 2021 dated 17.11.2022), it is held thus:

"17. Since the trial Court has dismissed the petition finally on 06.03.2020 for want of availability of the document with signature as directed by it in its order, dated 28.02.2020, and now, the petitioner proposed to file his passport and moreover, as the registered sale deeds mentioned by the plaintiff are also available, this Court deems it fit to set aside the order, dated 28.02.2020 to the extent of imposing the condition to file the contemporary document with signature as 'A.Chandra Sekhar Gupta' and also the consequent order dated 06.03.2020 and direct the trial Court to send the passport as well as the two sale deeds referred by plaintiff, to the expert for opinion."

8. On the other hand, the learned counsel for the respondent/plaintiff asserted that the petitioner/defendant presented a photocopy of the sale deed as a contemporaneous document to obtain expert analysis. Furthermore, the petitioner failed to undertake any requisite measures mandated by law to secure the original document. The learned counsel submits that sending a photocopy of the sale deed to the expert will not serve any purpose, and relied on the judgment of this Court in ***Ainampudi Lalitha Prasad vs. Gonela Subrahmanyam***¹ wherein it is held as under:

"8. Not only in the case relied on by the learned counsel for revision-petitioner/defendant, which was referred supra, this Court also in T.Lakshmi Theresamma vs. State Of Andhra Pradesh (2021 SCC OnLine AP 3670) after considering the signatures available on a copy and whether they can be send to an expert for comparison purpose with the disputed signatures, held as under:

"A Photostat copy is a copy taken from mechanical process. If the entries are shown accurately as in the original patta, there is a possibility of arriving at such conclusion. But, the mechanical process does not show the accuracy on account of blurred signatures/defective photo copying. Therefore, such comparison is impermissible under law, as there is every possibility of change of signatures due to passage of time and there is every possibility to sign on the documents in disguise, so as to obtain a favourable opinion from the handwriting expert. But, what is required as per law is that, any authentic contemporaneous document containing signatures of the parties has to be referred along with the disputed signatures for comparison and opinion."

9. A similar question came up before this Court in *P. Kusuma Kumari vs. State of Andhra Pradesh* and another, 2015 (1) ALD (CrI) 995, wherein this Court held that "disputed

¹ 2023 (3) ALD 496 (AP)

signature is required to be referred to the expert along with admitted signatures of the party, the Court is bound to refer the document by exercising power under Section 73.

10. Admittedly, the respondent/plaintiff did not take any steps as per law to secure the original document either from the revision-petitioner/defendant or the person, who is having the custody of the original. It is not the case of the respondent/plaintiff that the original Registered Sale Deed, dated 23.11.2005 is not available. Under those circumstances, sending photocopy to an Expert will not serve any purpose."

9. However, the Hon'ble Supreme Court has repeatedly cautioned that Courts cannot act as experts in all cases, unless it is glaringly evident that the signatures are either the same or different. In **Ajay Kumar Parmar v. State of Rajasthan**², the Apex Court held that Courts, when dealing with handwriting or signatures, cannot act as experts themselves. The relevant paragraph is extracted below:

"28. The opinion of a handwriting expert is fallible/liable to error like that of any other witness, and yet, it cannot be brushed aside as useless. There is no legal bar to prevent the court from comparing signatures or handwriting, by using its own eyes to compare the disputed writing with the admitted writing and then from applying its own observation to prove the said handwritings to be the same or different, as the case may be, but in doing so, the court cannot itself become an expert in this regard and must refrain from playing the role of an expert, for the simple reason that the opinion of the court may also not be conclusive. Therefore, when the court takes such a task upon itself, and findings are recorded solely on the basis of comparison of signatures or handwritings, the court must keep in mind the risk involved, as the opinion formed by the court may not be conclusive and is susceptible to error, especially when the exercise is conducted by one, not conversant with the subject. The court, therefore, as a matter of prudence and

² (2012) 12 SCC 406

caution should hesitate or be slow to base its findings solely upon the comparison made by it. However, where there is an opinion whether of an expert, or of any witness, the court may then apply its own observation by comparing the signatures, or handwritings for providing a decisive weight or influence to its decision."

10. Section 45 of the Act provides that the Court can call for expert evidence to form an opinion regarding the genuineness of signatures and handwriting relied upon by one party and disputed by another. It is also important to note that the power to seek expert opinion under Section 45 of the Act is discretionary and depends on the facts of each case. Therefore, examining the dicta in the above decisions reveals that Courts generally seek expert opinions when faced with a situation requiring a comparison of admitted and disputed signatures. They may refuse expert opinions only when there is no doubt about the genuineness of the signatures after comparing the admitted and disputed signatures. The defendant was examined as DW.1 and introduced Exs.B-1 to B-6 on 09.01.2024, after which the matter was scheduled for further defence evidence.

11. In the judgments cited by the petitioner's counsel, the Court allowed the filing of contemporary documents because the plaintiff/PW-1 did not object to the documents being sent for expert evaluation. In another case, the petitioner proposed to submit his passport and proceeded with submitting registered ~~sale~~ deeds. However, in the

current case, the petitioner has not come forward to produce the original sale deed to refer it to expert opinion and relied on the extract of the sale deed which is impermissible under law, as there is every possibility of change of signature due to passage of time. But what is required under the law is that any authentic document containing the signature of the parties which can be referred along with the disputed signature. Thus, the petitioner/defendant failed to secure the original document. Under those circumstances, sending a photocopy to an expert will not serve any purpose.

13. In the light of the above discussion, the revision petitioner has failed to submit the original document of the sale deed to refer it to the expert opinion and consequently, the Court cannot refer the signature on the promissory note with that of photocopy as a contemporaneous document. I do not find any compelling reason to interfere with the order under challenge, as it is evident that the trial Court has not acted illegally and there is no material irregularity in rendering the impugned order.

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

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

Sd/- B CHITTI JOSEPH
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principle Junior Civil Judge, Gudivada, Krishna District.
2. One CC to Sri P.S.P.Suresh Kumar, Advocate [OPUC]
3. One CC to Sri Naga Praveen Vankayalapati, Advocate [OPUC]
4. **Three CD Copies**

GPC

nm

HIGH COURT

DATED:06/05/2025

ORDER

CRP 483/2024



DISMISSING THIS CIVIL REVISION PETITION