

***THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY**

+ C.R.P. Nos.1745 & 1752 of 2023

% 20.02.2025

Between:

CIVIL REVISION PETITION NO: 1745/2023

Between:

Akki Venkateswarlu

...PETITIONER

AND

Kommanaboina Sambrajyam and Others

...RESPONDENT(S)

CIVIL REVISION PETITION NO: 1752/2023

Between:

Akki Venkateswarlu

...PETITIONER

AND

Kommanaboina Sambrajyam and Others

...RESPONDENT(S)

Counsel for the Petitioner : Sri N.Sai Phanindra Kumar

Counsel for the Respondent(S): Sri K.A.Prasad

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> Head Note:

? Cases Referred:

¹ 2023 (6) ALD 188 (A.P.)

¹ (2013) 14 SCC 1

APHC010352042023



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3460]

THURSDAY ,THE TWENTIETH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

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Counsel for the Petitioner:

1. N SAI PHANINDRA KUMAR

Counsel for the Respondent(S):

1. K ANKINEDU PRASAD

The Court made the following:

HON'BLE SRI JUSTICE NYAPATHY VIJAY**C.R.P. Nos.1745 & 1752 of 2023****COMMON ORDER:**

The C.R.P.No.1745 of 2023 is filed questioning the order dated 08.02.2023 passed in I.A.No.562 of 2022 in O.S.No.74 of 2015 by the Principal Junior Civil Judge, Ponnur, seeking to issue summons to S.R.O., Ponnuru to produce relevant records containing signatures of defendant No.2, which are obtained by the S.R.O at the time of registration of sale deed dated 23.02.2000.

2. The C.R.P.No.1752 of 2023 is filed questioning the order dated 08.02.2023 passed in I.A.No.563 of 2022 in O.S.No.74 of 2015 by the Principal Junior Civil Judge, Ponnur, seeking to send the specimen signatures of 2nd defendant available with the S.R.O, Ponnur to the handwriting expert along with suit contract of sale for comparison of signature of 2nd defendant.

3. ***The basic facts:*** Petitioner is the plaintiff. Suit O.S.No.74 of 2015 was filed for specific performance of agreement of sale said to have been executed by the defendants under the agreement of sale dated 25.07.1994. The defendants filed their written statement disputing the execution of suit agreement of sale. While so, after conclusion of the trial, the above applications were

filed to substantiate the plea of genuineness of the suit agreement of sale. The trial Court, on contest, dismissed the applications on the ground that the comparable sale deed is of the year 2000 and as there is a gap of six years from the suit agreement, the said document cannot be considered to be a contemporaneous document. Hence, the present civil revision petitions.

4. **Contentions:** Heard Sri N.Sai Phanindra Kumar, learned counsel for the Petitioner and Sri K.A. Prasad, learned counsel for the Respondents.

5. Learned counsel for the Petitioner contended that it is necessary to establish the false plea taken by the defendants regarding the execution of suit agreement of sale. It is submitted that there is no time frame for sending the suit document to an expert opinion and the expert opinion would be critical to the outcome of the suit.

6. Learned counsel for the Respondents contended that the original record is in the custody of S.R.O, Ponnur and that the signatures obtained by the S.R.O, Ponnur at the time of registration of sale deed on 23.02.2000 said to have been executed by defendant No.2 in favour of third parties cannot be produced as the

same being a Statutory Register which cannot be given to third parties. The Register contains details of various other transactions also and therefore the said Register cannot be insisted by the Petitioner to be produced for comparison. The counsel for the Respondents also relied on the judgment of this Court in ***Indukuri Sai Manohara Raju v. Guntu Aseervadam***¹, in support of his contention.

7. Reasoning: The suit document in question here is the agreement of sale which was denied to be executed by the defendants in the written statement. Though, there is no time limit for seeking to send the disputed document for expert opinion, however, the same was left to the discretion of the Court as held by a Division Bench of this Court in ***Janachaitanya Housing Ltd., Hyderabad v. Divya Financiers, Guntur***². In the said case, the issue was referred to a Division Bench as to whether an application under Section 45 of the Evidence Act, can be filed at a latter stage of the trial or at the stage of arguments. After considering the issue, the Division Bench at para 14 held as under:

¹ 2023 (6) ALD 188 (A.P.)

² 2008 (4) ALD 339 (DB)

14. In view of the same, we are of the opinion that the Court cannot lay down any hard and fast rules controlling the discretion of the Court to send the disputed documents/writings for the opinion of the expert or to examine him in support of such opinion. On sending the document to handwriting expert and on receiving report, parties, on showing sufficient cause, may call upon the Court to permit them to examine handwriting expert or any witness in support or rebut the said opinion.

8. As held, it is left to the discretion of the Court to send applications for expert opinion at the fag end of trial. However, in this case, the suit is at the stage of arguments and the trial Court refused to exercise its discretion to send the suit document for expert opinion. The said discretion by the civil Court cannot be faulted as no compelling reasons are shown by the Petitioner explaining the reasons which reflect his diligence in pursuing the issue.

9. Therefore, this Court does not find any merit in the civil revision petitions and the same are dismissed. No order as to costs. As a sequel, pending applications, if any, shall stand closed.

NYAPATHY VIJAY, J

Date: 20.02.2025
Note: L.R. copy be marked
KLP