(2009) 5 ALT 113

Andhra Pradesh High Court

Case No: C.R.P. No. 2198 of 2009

P. Venkatramana		APPELLANT
	Vs	
M. Venkataramana		RESPONDENT

Date of Decision: July 17, 2009

Acts Referred:

- Evidence Act, 1872 - Section 45

Citation: (2009) 5 ALT 113

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: Mahadeva Kanthrigala, for the Appellant; G. Bhaskar, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

L. Narasimha Reddy, J.
The respondent filed O.S. No. 172 of 2008 in the Court of Junior Civil Judge, Vayalpad, against the petitioner for recovery of certain amount on the strength of a promissory note dated 01-08-2006. The petitioner denied the execution of the promissory note. Before the trial of the suit commenced, the petitioner filed I.A. No. 70 of 2009 u/s 45 of the Indian Evidence Act (for short "the Act") with a prayer to send the suit promissory note for opinion of a hand writing expert. The application was opposed by the respondent. Through its order, dated 13-04-2009, the trial Court dismissed the I.A. - Hence, this civil revision petition.

2. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent.

3. The sole basis for the respondent to file the suit against the petitioner was the promissory note. The petitioner flatly denied the execution thereof. It is in this context that

the petitioner filed the I.A. u/s 45 of the Act with a prayer to send the document for examination by a hand writing expert.

4. The trial Court dismissed the I.A. by making certain observations. One of them was that there is difference between the signatures of the petitioner in the vakalat and written statement on the one hand and on the promissory note on the other. The second observation is that the petitioner did not make available the signature of the contemporaneous period, referable to the date of promissory note. Incidentally, the promissory note is said to have been scribed by the petitioner herein.

5. It is no doubt permissible for a Court to undertake comparison of hand writing or signatures to certain extent. However, the Court had its own limitations in the matter of expressing any definite opinion, unless the facts are so glaring. Though the contemporaneous signature or the hand writing of a party, if available, would be of immense use for effective comparison, it is not as if, opinion cannot be expressed, in the absence of such material. Experts are known for their ability to give opinion, depending upon the manner of hand writing, slant, letters etc. An expert would be in a position to render proper opinion, even if the signatory or author of writing changes the pattern, at a later point of time. That is the very essence of expertise. The reasons furnished by the trial Court do not accord with the settled principles of law.

6. Therefore, the civil revision petition is allowed and the order under revision is set aside. Consequently, the I.A. shall stand allowed. The trial Court shall send the document to an expert named by it duly indicating the conditions. There shall be no order as to costs.