

(1998) 11 AP CK 0011

Andhra Pradesh High Court

Case No: Civil Revision Petition No. 2886 of 1997

Surapaneni Umamaheswara Rao

APPELLANT

Vs

Bank of India and Others

RESPONDENT

Date of Decision: Nov. 4, 1998

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 115

Citation: (1998) 6 ALT 413

Hon'ble Judges: C.V.N. Sastri, J

Bench: Single Bench

Advocate: P. Panduranga Rao, for the Appellant; None, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

C.V.N. Sastri, J.

In spite of service of notice the first respondent-plaintiff has not chosen to appear to contest this civil revision petition which is filed by the seventh defendant in the suit questioning the order dated 22-7-1997 passed by the lower Court. By the said order, the lower Court summarily rejected at the SR stage the application filed by the petitioner seeking to send the suit documents to a hand writing expert for comparing the disputed signatures with his admitted signatures. The lower Court dismissed the application observing that the plea of the defendants is one of denial of execution only but not one of forgery and so the burden is on the plaintiff to prove execution and hence the petition is rejected. The petitioner in his written statement filed in the suit has taken a specific plea in para 2 that he has not signed any document whatsoever at any point of time in favour of the plaintiff-Bank and much less the alleged suit documents i.e., acknowledgement of debt and confirmation of balances dated 14-3-1989, 15-3-1989, 8-7-1993, 17-2-1990 and acknowledgement of debt dated 16-10-1990 for the alleged pronote dated 4-9-1987.

In para 5 of the written statement, the petitioner has further stated that in the interests of justice the Court may be pleased to send the signature of this defendant along with the alleged signatures found on the suit documents to any handwriting expert preferably Government expert for ascertaining the genuineness of the signatures on the suit documents. It is also stated therein that a separate petition is being filed for this purpose. The petitioner has in fact filed such a petition earlier bearing SR No. 14247/96 and the same was also dismissed at the SR stage on 6-11-1996 with the cryptic observation "No grounds at this stage. Petition dismissed".

2. From the above facts, I am satisfied that the lower Court has acted with material irregularity in the exercise of its jurisdiction in rejecting the two applications filed by the petitioner summarily even without hearing the other side. When the petitioner has specifically denied the execution of the suit documents and also disputed the genuineness of his alleged signatures found on the suit documents, the lower Court ought to have considered his request for sending the suit documents to the handwriting expert and more so when the petitioner made such a request sufficiently early long before the trial of the suit commenced. That apart, it is well settled that a Judge cannot take upon himself the task of comparing the disputed signatures with the admitted signatures to find out whether they agree with each other and prudence requires that the opinion and assistance of an expert is obtained.

3. For the foregoing reasons, the Civil Revision Petition is allowed. The impugned order is set aside and the lower Court is directed to dispose of the application I.A. SR. No. 10984 of 1997 filed by the petitioner in accordance with law after hearing both parties. No costs.