

THE HON'BLE SRI JUSTICE K.C.BHANU

CIVIL REVISION PETITION NO. 5294 of 2013

ORDER:

This Civil Revision Petition is filed challenging the order dated 16.12.2013 in I.A. No.688 of 2013 in O.S. No.126 of 2012 on the file of the Senior Civil Judge, Puttur.

2. Heard.

3. The suit is filed for recovery of money. The petitioner/ defendant filed the aforesaid petition under Section 45 of the Indian Evidence Act, 1872 to send the suit promissory note along with documents containing admitted signatures of the petitioner, to expert for comparison with admitted signatures and report. The said petition was dismissed by the trial court on the ground that the petitioner failed to file his contemporaneous signatures of the year 2009 and that there was a possibility for the petitioner to sign in a different manner after filing of the suit.

4. In view of the fact that the petitioner had taken the plea of forgery in the written statement, the trial court ought to have sent the disputed document to the expert. No doubt, the suit promissory note is allegedly executed in the year 2009. Admittedly, the petitioner filed written statement and vakalat in 2012. There is a time gap of 3 years. But, it does not mean that there would be change in the signatures of the petitioner. Therefore, the signatures in written statement and vakalat filed by the petitioner can be taken as admitted signatures of the petitioner for the purpose of comparison of the disputed signatures.

5. In the result, the impugned order is set aside, consequently, I.A. No.668 of 2013 filed by the petitioner before the trial court shall stand allowed. The petitioner is directed to deposit a sum of Rs.20,000/- (Rupees twenty thousand only) tentatively in the trial court towards expert's fee to show his *bona fides*, within a period of two weeks from the date of receipt of a copy of this Order, and on such deposit, the trial court is directed to send the disputed promissory note along with written statement and vakalat filed by the petitioner, to the expert for comparison and opinion.

6. The Civil Revision Petition is, accordingly, allowed. No costs. Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

K.C.BHANU, J

28.02.2014

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