

HON'BLE SRI JUSTICE K. LAKSHMAN

CIVIL REVISION PETITION No.3812 OF 2023

ORDER:

Heard Mr. Dasi Ramesh, learned counsel for the petitioner and Mr. Vishwarupa Chary, learned counsel representing Mr. Kodari Mallikarjun, learned counsel for respondent No.1. However, as per cause title, respondent No.2 is not a necessary party to the present revision.

2. This revision is filed challenging the order dated 16.11.2023 in I.A. No.382 of 2023 in I.A. No.299 of 2023 in O.S. No.193 of 2019 passed by learned Senior Civil Judge at Narsampet dismissing the petition filed under Order - VIII, Rule 1A (3) read with 151 of CPC.

3. The petitioner herein is arrayed as defendant No.2, while respondent No.1 herein is the sole plaintiff in O.S. No.193 of 2019. Respondent No.1 herein - plaintiff filed the said suit vide O.S. No.193 of 2019 against the petitioner and respondent No.2 herein for recovery of an amount of Rs.6,48,000/- based on promissory note alleged to have executed by respondent No.2 herein - defendant No.1 and loan guarantee agreement alleged to have executed by the petitioner herein as she stood as guarantor to the aforesaid loan.

4. During pendency of the aforesaid suit, the petitioner herein had filed an application vide I.A. No.299 of 2023 under Section - 45 of the Act, 1872, to send her signature on the loan guarantee agreement with admitted signatures to the Expert for comparison. The same was allowed vide order dated 22.09.2023. While so, the FSL Authorities returned the documents for want of other required documents, such as cheques, bank account opening form, sale deeds, Wills, Agreements, Withdrawal Forms etc., but the same are not with her possession and custody and, therefore, she could not produce the same. However, she filed certified copy of registered sale deed bearing document No.145 of 2013, dated 19.01.2013 showing purchase of property by her and, therefore, filed the aforesaid application to send the same to FSL Authorities.

5. Respondent No.1 - plaintiff filed counter opposing the relief. He further contended that the certified copy of the said sale deed dated 19.01.2013 pertains to six (06) years prior to the filing the suit and that the certified copy cannot be received for sending to FSL for expert opinion.

6. After hearing both sides, learned Senior Civil Judge vide order dated 16.11.2023 dismissed the said application (I.A. No.382 of

2023) on the ground that for comparing the signature in general, it requires original document, but not the certified copy.

7. Challenging the said order, dated 16.11.2023 in I.A.No.382 of 2023, the petitioner herein - defendant No.2 filed the present revision.

8. The aforesaid facts would reveal that the respondent No.1 - plaintiff had filed the aforesaid suit vide O.S. No.193 of 2019 against respondent No.2 herein - defendant No.1 and the petitioner - defendant No.2 for recovery of money basing on the original promissory note dated 09.11.2019 executed by respondent No.2 herein and the guarantee bond executed by the petitioner herein - defendant No.2. The petitioner herein has filed written statement denying the execution of the said loan guarantee agreement and according to her, her signature was forged on the same. The plaintiff loan guarantee agreement was forged and fabricated by the plaintiff. The said written statement was filed on 02.06.2023.

9. Thereafter, the petitioner herein had filed an application vide I.A. No.299 of 2023 under Section - 45 of the Act, 1872, to send his signature on the said promissory to FSL for comparison of the

signature thereon with the admitted signatures. The said petition was allowed on 29.09.2023.

10. According to the petitioner, her signatures were sent for FSL and FSL Authorities returned the file to the trial Court with a request to re-transmit the admitted signatures of the concerned person, such as written in normal course of business, such as cheques, bank account opening form, sale deeds, Wills, Agreements, Withdrawal Forms etc., as the same are required for the purpose of comparison and opinion. According to the petitioner herein, the said fact was informed to his counsel by the trial Court on 10.11.2023. The aforesaid documents are not in her possession. Therefore, she filed the aforesaid application to send the certified copy of registered sale deed bearing document No.145 of 2013, dated 19.01.2013 showing purchase of property by her and it contains her signatures.

11. Vide the proceedings, dated 12.10.2023, the Additional Director, TSFSL, Hyderabad, requested learned trial Court to re-transmit the admitted signatures of the concerned person, such as written in normal course of business, such as cheques, bank account opening form, sale deeds, Wills, Agreements, Withdrawal Forms etc.,

as the same are required for the purpose of comparison and opinion. Thus, the FSL, Hyderabad has not mentioned the reasons for re-transmitting the admitted signatures. But, the petitioner herein has filed the aforesaid application vide I.A. No.382 of 2023 to receive the aforesaid certified copy of registered sale deed dated 19.01.2013. However, the petitioner has not mentioned in the affidavit filed in support of the present I.A. as to non-availability of cheques, bank account particulars etc. for the reasons best known to him.

12. It is relevant to note that the aforesaid certified copy of the sale deed pertains to the year 2013, whereas the subject loan guarantee agreement/bond said to have executed in the year 2019. Therefore, the said sale deed is not a contemporaneous document and it is not an original document. The trial Court observing that the certified copy is not the required document as per the requirements of FSL Authorities and that for comparing the signature in general, it requires original document dismissed the said application.

13. As discussed above, the FSL, Hyderabad has to compare the signatures sent by the trial Court and give its opinion. Instead, vide proceedings dated 12.10.2023, the FSL requested the trial Court

to re-transmit the admitted signatures as stated above. No reasons were assigned. FSL has to compare the signatures and give its opinion. Vide the said letter dated 12.10.2023, the FSL, Hyderabad, stated that the admitted signatures of the concerned person, such as written in normal course of business, such as cheques, bank account opening form, sale deeds, Wills, Agreements, Withdrawal Forms etc., are required for the purpose of comparison and opinion. Further, the petitioner has not explained in her affidavit that she did not have any bank account including cheque book except vaguely mentioning that she did not possess the aforesaid documents. In fact, the petitioner herself admits that she purchased immovable property under the aforesaid registered sale deed bearing document No.145 of 2013 dated 19.01.2013. When she purchased the immovable property, she must have in the custody of original document. There is no explanation from the petitioner's side as to why she sought to send certified copy of the said original document instead sending original document, and it is not even her case that she lost the original document and, therefore, she filed the certified copy.

14. In view of the aforesaid discussion, the order passed by the trial Court is a reasoned order and the petitioner failed to make out

any ground to interfere with the said order. Thus, the present revision fails and the same is liable to be dismissed.

15. The present Civil Revision Petition is accordingly dismissed. In the circumstances of the case, there shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in the revision shall stand closed.

K. LAKSHMAN, J

1st March, 2024
Mgr



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