

HIGH COURT OF ANDHRA PRADESH**Bench: Hon'ble Sri Justice R. Raghunandan Rao****Date of Decision: 3rd May 2024**

CIVIL REVISION PETITION NO. 51/2024

Elayraja ...PETITIONER**VERSUS****K Devan ...RESPONDENT****Legislation:**

Indian Evidence Act, Section 45

Subject: Civil revision petition arising from a dispute regarding the authenticity of a pronote used in a recovery suit, with the petitioner alleging forgery and seeking signature verification.

Headnotes:

Civil Law – Authenticity of Document – Dismissal of application for signature comparison by trial court due to lack of comparable signatures provided by petitioner – Revision against order dismissing application in O.S.No.33 of 2015 for recovery based on alleged forged promissory note – High Court finds procedural error by not allowing submission of comparable signatures that could potentially affect substantive justice – Held, trial court directed to conduct signature comparison upon submission of original documents by petitioner, granting procedural leeway to achieve substantive justice – If documents are not produced, trial to proceed without comparison [Paras 1-8]

Referred Cases:

None mentioned explicitly.

Representing Advocates:

For the petitioner: A. Syam Sundar Reddy

For the respondent: T. Janardhan Rao

ORDER:

The respondent herein had filed O.S.No.33 of 2015, before the Principal Senior Civil Judge, Chittoor, for recovery of certain amounts on the basis of a pronote. The petitioner herein took the plea that the said promissory note is forged and fabricated. On this basis, the petitioner moved I.A.No.233 of 2013 under Section 45 of Indian Evidence Act for sending the signatures on the pronote for comparison. This application was dismissed by the trial Court, on 06.09.2023, on the ground that the petitioner while asking for comparison of the signatures had not filed admitted signatures against which the disputed signatures could be compared and dismissed the application on 06.09.2023.

1. Aggrieved by the said order, the present Civil Revision Petition has been moved.
2. Learned counsel for the petitioner has filed memos producing a partition deed dated 16.04.2012 which has been registered with Sub-Registrar, Chittoor, a General Power of Attorney dated 08.07.2013, registered as document No.4163 of 2013 before the Registrar, Chittoor and a non possessory mortgage dated 13.04.2011 executed and registered before the Registrar, Chittoor. The disputed pronote is dated 11.02.2012. It is submitted by the learned counsel for the petitioner that the General Power of Attorney mentioned above is in the custody of the respondent.
3. Learned counsel for the petitioner would submit that these documents had not been produced before the trial Court and cannot be produced before this Court in the course of the hearing of the revision petition. He would submit that the said documents cannot be referred to by the petitioner and as such, the revision petition would have to be dismissed.
4. It is true that the petitioner had not produced the comparable documents before the trial Court. However, that would not preclude the petitioner from placing the said documents before this Court in as much as substantive justice would be defeated on the ground of procedural mistakes.
5. In that view of the matter, this Civil Revision Petition is allowed and the trial Court shall refer the signature on the pronote for comparison along with the original signatures contained in the originals of the aforesaid registered documents after the said original documents have been produced by the

petitioner before the trial Court. The petitioner is granted time up to 30.06.2024 to produce these originals before the trial Court.

6. The trial Court would refer only those documents which are produced before the trial Court for comparison with the disputed signature. In the event of no document being produced, the trial Court shall proceed with the trial without referring the signatures for comparison.
7. Accordingly, the Civil Revision Petition is allowed. There shall be no order as to costs. Miscellaneous petitions, pending if any, shall stand closed.

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