

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**CRP.No.69 of 2015**

**ORDER :**

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.15.12.2014 in I.A.No.316 of 2014 in O.S.No.81 of 2012 on the file of Senior Civil Judge, Kadiri.

**2.** The petitioner herein is the defendant in the above suit.

**3.** The respondent filed the above suit against the petitioner for recovery of certain amounts from petitioner on the basis of a suit promissory note.

**4.** The petitioner filed a written statement alleging that the suit promissory note is a forgery. He filed I.A.No.316 of 2014 under Section 45 of the Indian Evidence Act, 1872 requesting the Court to send Exs.A.1 to A.3 to hand-writing and finger-print expert. In the said application, he stated that his signature should be taken in the court hall and they should be compared with the signatures of Exs.A.1 to A.3.

**5.** This application was opposed by respondent who contended that contemporaneous signatures of petitioner required for comparison with Exs.A.1 to A.3 were not

furnished and the signatures of petitioner available on vakalat, written statement and others papers, are similar to those in Exs.A.1 to A.3.

**6.** By order dt.15.12.2014, the Court below dismissed the said application. It held that the counsel for petitioner himself had admitted that there were no admitted signatures available with him for submission before the Court and unless comparable signatures are furnished, it would be difficult for an expert to express any opinion thereon.

**7.** Challenging the same, the present Revision is filed.

**8.** Heard Sri N. Aswartha Narayana, counsel for petitioner; and Sri M. Prasada Rao, counsel for respondent.

**9.** The counsel for petitioner contended that the Court below ought to have sent Exs.A.1 to A.3 to an expert for comparing the signatures thereon with the signatures to be taken from the petitioner in the open court; and that even if admitted signatures are not available, this course can be adopted by the Court below.

**10.** I am unable to agree with the said submissions.

**11.** There is every possibility of petitioner disguising his signature if his signatures were to be taken in the open

Court. Therefore, it is always safe to rely upon contemporaneous documents containing the signatures of petitioner, if they are available, so that they can be sent to an expert to give an opinion. Since the counsel for petitioner himself admitted in the Court below that there was no such comparable signatures on contemporaneous documents, there is no error of jurisdiction in the order passed by the Court below. I do not find any merit in the Revision and it is accordingly dismissed. No order as to costs.

**12.** As a sequel, miscellaneous applications pending, if any, in this Revision shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 09-07-2015

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