



**IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)**

**[3209]**

THURSDAY, THE FIFTH DAY OF MARCH  
TWO THOUSAND AND TWENTY SIX

**PRESENT**

**THE HONOURABLE SRI JUSTICE NINALA JAYASURYA**

**CIVIL REVISION PETITION NO: 1378 OF 2025**

**Between:**

1.G. GURU PRASAD,, S/O. G. SIDDAIAH, HINDU, AGED 33 YEARS,  
R/O. D.NO. 7-6-332, MITTA STREET, SESHAPURAM POST  
CHANDRAGIRI, TIRUPATI, TIRUPATI DISTRICT.

**...PETITIONER**

**AND**

1.B KRISHNA MURTHY, S/o. B. Mogilaiah, Aged about 63 years. Retired  
Employee, R/o. D.No. 2-4/2, K.G. Sathram Village, Bangarupalyam  
Mandal, Chittoor District.

**...RESPONDENT**

**Counsel for the Petitioner:**

1.Mr.DIRISALA KRISHNA VAMSI

**Counsel for the Respondent:**

1.Mr.Y.V.S.S.Dharneesh, representing Mr.Suresh Kumar Reddy Kalava

Orders Reserved on : 05.12.2025.

Orders Pronounced on : 05.03.2026.

Orders Uploaded on : 06.03.2026.

**The Court made the following ORDER:**

The present Civil Revision Petition is filed against the order dated 06.03.2025 passed in I.A.No.223 of 2024 in O.S.No.505 of 2019 on the file of the Court of the Principal Civil Judge (Junior Division)-cum-Judicial First Class Magistrate, Tirupati.

2) The petitioner herein filed the said suit against the respondent / defendant for recovery of an amount of Rs.5,00,000/- on the strength of a pronote dated 02.10.2016. The respondent filed written statement, *inter alia*, denying the execution of the suit promissory note and that the same is created and fabricated. When the matter is posted for arguments, the respondent / defendant filed the above said I.A. under Section 45 of the Indian Evidence Act and Section 151 of CPC seeking to send the suit pronote dated 02.10.2016 (Ex.A1) for comparison of his signatures with the admitted signatures on the contemporaneous documents. The petitioner / plaintiff filed counter and resisted the application. Learned Trial Court vide impugned order allowed the same. Feeling aggrieved, the present revision petition came to be filed.

3) Learned counsel for the petitioner/plaintiff *inter alia* submitted that the learned Trial Court went wrong in allowing the Interlocutory Application in question without considering the matter in the proper perspective. He submits that the respondent-defendant had not taken a specific plea of 'forgery' in the written statement and the observation of the learned Trial Court that the defendant had taken plea of forgery of suit promissory note is not correct or

tenable. Drawing the attention of this Court to the relevant material on record, including the affidavit filed by the respondent–defendant in lieu of chief-examination and the cross-examination of the DW 1 (respondent/defendant), he submits that the respondent-defendant admittedly paid a sum of Rs.1,00,000/- during the pendency of the suit and only with an intention to drag on the proceedings filed the application in question, that the same is lacking in *bona fides*. He also contends that in view of Section 73 of the Indian Evidence Act which empowers the Court to compare the signatures, the discretion as exercised by the learned Trial Court in allowing the application for comparison of signatures as sought for by the respondent–defendant is not just or tenable. Making the said submissions, he seeks to allow the revision petition by setting aside the order under challenge. In support of his contention that in the absence of a specific plea of ‘forgery’, the learned Trial Court went wrong in ordering the I.A. in question, the counsel placed reliance on the decision of a learned Judge in ***Mallavarapu Sesha Reddy Vs Govela Srinivasa Rao***<sup>1</sup>.

4) On the other hand, the learned counsel appearing on behalf of the respondent-defendant sought to impress upon the Court that in the written statement a specific stand was taken that the suit pronote was fabricated. He submits that whether the respondent-defendant used the term ‘forgery’ or ‘fabrication’ is immaterial, since both point to the same plea, that there is no requirement in law that the defendant has to employ any specific terminology

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<sup>1</sup> CRP No.1959 of 2022, dated 30.01.2023 (APHC).

like 'forgery' in the written statement. In effect, his contention is that when the execution of document (Ex.A1) itself is denied, it is well within the discretion of the Court to send the disputed document for comparison of handwriting or signature for the expert opinion. It is also his contention that as per Black's Law Dictionary 'fabricate' means and includes 'forgery' and therefore, absence of specific plea or terminology like 'forgery' in the written statement is insignificant. To buttress the submissions made, he placed reliance on the decisions in ***Surapaneni Umamaheswara Rao Vs Bank of India***<sup>2</sup>; ***Janachaitanya Housing Ltd., Madala Sudhakar Vs Divya Financiers, Ms.Gorantla Anjali***<sup>3</sup>; ***Sheila Sebastian Vs R.Jawaharaj & Anr., Etc.***<sup>4</sup> and ***Devasahayam (Dead) By Lrs., Vs P.Savithamma and Others***<sup>5</sup>, and urges for dismissal of the Revision Petition, as the same is devoid of merits.

5) This Court has considered the submissions made and perused the material on record. On an appreciation of the rival contentions, the point that arises for consideration is whether the Order under revision warrants interference by this Court, in the facts and circumstances of the case?

6) At the outset, it may be appropriate to mention that from a close reading of the written statement filed by the respondent-defendant it is evident that there is no specific plea of "forgery". The execution of the suit pronote (Ex.A1) was denied and a plea to the effect that it may be created and fabricated for the purpose of the suit was taken. Therefore, leaving apart the contention to

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<sup>2</sup> 1998 LawSuit (AP) 761

<sup>3</sup> 2008 LawSuit (AP) 189

<sup>4</sup> 2018 LawSuit (SC)489

<sup>5</sup> (2005) 7 SCC 653

the effect that the plea of fabrication also covers forgery, the fact remains that no specific plea of forgery was taken as wrongly observed by the learned Trial Court.

7) In the decision relied on by the learned counsel for the petitioner in ***Mallavarapu Sesha Reddy case (1 supra)*** the defendant in the suit had taken a similar plea in the written statement that the suit promissory note was fabricated, without raising a specific plea of forgery. The learned Judge while opining that in the absence of any plea regarding 'forgery' in the written statement, sending the document to expert does not arise, upheld the order of the learned Trial Court rejecting the application filed under Section 45 of the Indian Evidence Act seeking to send the suit promissory note to the handwriting expert for comparison with the admitted signatures and writings of the revision petitioner-defendant. The contentions advanced by the learned counsel for the petitioner with reference to the said decision, no doubt, merits appreciation.

8) However, in ***Surapaneni Umamaheswara Rao case (2 supra)***, a learned Judge of the erstwhile High Court of Andhra Pradesh had an occasion to deal with the order of the Trial Court rejecting the application filed by the defendant seeking to send the suit document to handwriting expert for comparison of the disputed signatures with the admitted signatures, at the SR stage. The Trial Court dismissed the application observing that the pleas of the defendant is one of the denial of execution only, but not one of the forgery and so the burden is on the plaintiff to prove the execution. The Learned

Judge set aside the said order *inter alia* opining that when the petitioner has specifically denied the execution of the suit documents and also disputed the genuineness of the 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.

9) Though an interesting argument was advanced by the learned counsel for the respondent with reference to the above said decision as also the decision of the Hon'ble Supreme Court of India in ***Sheila Sebastian case (4 supra)*** wherein considering the provisions of the IPC, it was opined that the definition of 'false document' is a part of the definition of 'forgery', that both must be read together, this Court is of the opinion that the said contentions need not be examined, much less with reference to the meaning of 'fabricate' and 'forgery' as per the Black's Law dictionary, in the light of certain crucial aspects in the present case, discussed herein after. While it is trite Law that the contention of the parties in their pleadings must be culled out from a reading of the same as a whole as laid down in ***Devasahayam case (5 supra)***, it is equally settled that the evidence cannot go beyond pleadings. ***(See: Srinivas Raghavendrarao Desai (Died) by LRs Vs Kumar Vamanrao alias Alok and Others<sup>6</sup>)***.

10) In the present case, it is not in dispute that after the evidence on both sides was closed and the matter is posted for arguments, the Interlocutory

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<sup>6</sup> 2024 SCC Online SC 226

Application in question was filed. No separate applications seeking to reopen the evidence and to recall the witness (DW1) appears to have been filed. Be that as it may. In the affidavit filed in support of the above referred I.A., for the first time a plea was introduced that the signature of the defendant was tampered and the promissory note was created. While denying the same and resisting the I.A., the petitioner/plaintiff has taken a plea that during the pendency of the proceedings the defendant paid a sum of Rs.1,00,000/- towards partial discharge of suit claim and the same was recorded by filing a memo. A reading of the cross-examination of DW 1 / defendant fortifies the same. These crucial aspects, missed the attention of the learned Trial Court. It ought to have appreciated that when the parties on both sides adduced evidence and proceeded to advance arguments, the application of this nature is only intended to protract the litigation and without any *bona fides*. In a given case there may be justification in allowing an application seeking to refer the document for Expert opinion, even at the stage of arguments, which is within the discretion of the Trial Court as held in ***Janachaitanya Housing Ltd., case (3 supra)***, but in the considered opinion of this Court, such a situation is not present in the instant case. While ordering an application seeking to refer the documents for opinion of an Expert, the Court is also required to take into consideration the conduct of the parties, though no time limit can be fixed for filing of the application. The learned Trial Court without appreciating the relevant aspects and the conduct of the respondent/defendant in filing of the application in question even after payment of Rs.1,00,000/-, allowed the I.A.

and the discretion exercised in such circumstances cannot be viewed as sound, but erroneous and tantamount to failure to exercise the jurisdiction vested in it, in the correct perspective.

11) In the light of the aforesaid conclusions, this Court is of the considered opinion that the impugned order is unsustainable and that it is a fit case warranting interference under Article 227 of the Constitution of India. Point is answered accordingly, against the respondent / defendant.

12) In the result, the Civil Revision Petition is allowed. Impugned Order dated 06.03.2025, is set aside and I.A.No.223 of 2024 in O.S.No.505 of 2019 on the file of the Court of the Principal Civil Judge (Junior Division)-cum-J.F.C.Magistrate, Tirupati, stands dismissed. No costs.

13) Consequently, the Miscellaneous Applications pending, if any, shall stand closed.

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**NINALA JAYASURYA, J**

**DATE:05.03.2026.**

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**THE HONOURABLE SRI JUSTICE NINALA JAYASURYA**

**CRP No.1378 of 2025**

**Date:05.03.2026.**

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