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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3533 OF 2014

Rahuldev s/o Devidas Patil,
Age: 30 years, Occupation: Nil,
Residing at Darshan Vihar,
Beed Bye-Pass, Aurangabad

..PETITIONER
(Orig. Plaintiff)

VERSUS

Manisha d/o Tejrao Mankape
@ Manisha w/o Rahuldev Patole,
Age: 24 years, Occupation: Household,
Residing at C-28, Mirajgave Vishva,
Devlalii Road, Aurangabad

..RESPONDENT
(Orig. Defendant)

Mr Hemant Surve, Advocate for petitioner;
Mr Shrimant Munde, Advocate holding for Mr S. B. Ghute, Advocate for
respondent

CORAM : N.W. SAMBRE, J.

Date : 5th December, 2015

ORDER :

The petitioner - husband of the respondent herein, preferred Hindu Marriage Petition No.187 of 2010, for dissolution of marriage under the provisions of sections 5 (i) and 11 of the Hindu Marriage Act, on the ground that the respondent, was already having a spouse living at the time of the marriage.

2. In the said proceedings, the petitioner – husband moved an application Exh.92 praying therein for referring the matter to the Handwriting Expert, so as to verify the signature of the respondent on the

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first information report with that of marriage certificate and signature on the bond/stamp paper vendor register. The said application Exh.92 came to be rejected by the learned Civil Judge Senior Division by an order dated 11th February, 2014. Thus, the present petition.

3. Heard Mr Surve, learned Counsel appearing on behalf of the petitioner at length. According to him, in the peculiar facts and circumstances as are narrated in the Hindu Marriage Petition, so as to establish the case for dissolution of marriage and to prove the fact about already existence of marriage of respondent, it is necessary in the interest of justice to grant the application Exh.92 by referring the matter to the Handwriting Expert, as prayed for. Mr Surve would then urge that the Trial Court, by an order dated 23rd July, 2013, has already allowed the application Exh.67; whereby the documents were exhibited. According to him, the documents to which the exhibits are given, i.e. sr. nos. 4, 5 and 6, are required to be appreciated as those documents are accepted in evidence and as such, the reference to the Handwriting Expert was very much justified.

4. Learned Counsel appearing on behalf of the respondent would urge that the Trial Court, while rejecting the application Exh.92 refusing to grant leave to refer the matter to the Handwriting Expert, has recorded cogent reasons. According to him, the conduct of the petitioner is very much observed and merely exhibiting the documents pursuant to the order below Exh.67 does not entail the petitioner to claim reference to the

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Handwriting Expert. According to him, the petition is liable to be dismissed.

5. Having bestowed my anxious thought to the submissions made, it is to be noted that, it is upon aftermath of the wedding of the petitioner and the respondent on 30th June, 2010, the father of the petitioner received an envelope containing certain documents, which according to him contains a communication about the marriage of respondent with one Ganesh Sitaram Chavan. He then claimed that on 16th July, 2010 another envelope was received through courier, containing the photo of respondent no.1 with said Chavan, the affidavit of marriage and certificate of marriage. Admittedly, all these documents are photo copies and not original. Apart from above, it is required to be noted that the above referred documents which are formed to be the basis for initiation of proceedings for dissolution of marriage, it is the petitioner who is duty bound to prove the same, as he intends to rely upon the same and the reference as is sought to the Handwriting Expert is not permissible, particularly in the background of the narrations made in the Hindu Marriage Petition. Merely because application Exh.67 came to be allowed exhibiting certain documents, that *ipso facto* cannot grant a premium in favour of the petitioner to claim reference of the documents to the Handwriting Expert. Apart therefrom, it is to be noted that the learned Trial Court, while rejecting the application, in paragraphs 8 and 9 of the impugned order, has given cogent reasons which are germane to the cause as was sought to be canvassed. In view thereof, no case for interference is made out.

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6. In the result, writ petition fails and stands dismissed with no order as to costs.

(N.W. SAMBRE, J.)

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