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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9153 OF 2014

Bhagwan Kashinathrao Joshi

PETITIONER

VERSUS

Bhagwat Manikrao Wagh

RESPONDENT

.....

Mr. Mobin Shaikh, advocate for the petitioner (appointed)

Mr. M.V.Salunke h/f Mr.V.D.Salunke, Advocate for the respondent

.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 11th FEBRUARY, 2015

ORDER :

1. The petition has been moved by the petitioner against order dated 3rd July, 2014 praying to allow the request made under Exhibit-38 in Regular Civil Suit No. 184 of 2012 for sending sale deed executed by Chhabubai in favour of defendant No.2, to hand writing expert.

2. I have heard learned advocates on the either side. The basic contentions with which the petitioner - plaintiff has went to the court is that Chhabubai was not having any saleable title and that taking undue advantage of the situation, particularly mutation, the land has been illegally alienated to defendant

No.2. It is further being contended that Chhabubai had hurriedly executed the sale deed and that the plaintiff as such, wanted cancellation of the same.

3. The defendants appeared and submitted their written statement and issues have been framed. Thereafter, the petitioner - plaintiff has moved an application doubting genuineness of the sale deed and requested that the sale deed be sent to hand writing expert for comparison of thumb impression of Chhabubai, for doubt has been created about thumb impression, since an endorsement appears on the sale deed that her hand was trembling.

4. The trial court, looking at that execution of sale deed had not been denied and in view of the position that the thumb mark of the executant is not denied and that absence of saleable title and absence of witnesses are the grounds on which the sale deed is sought to be cancelled, thought it fit that there is no point in sending the document to hand writing expert.

5. Looking at the background and the pleadings, the order passed by the trial court appears to be reasonable and this is not a case wherein the findings call for interference in exercise of discretionary powers particularly when possible and plausible

view had been taken by the learned judge, which can not be termed as perverse. Writ petition as such stands rejected. Fees payable to learned advocate appointed by court for the petitioner is quantified at Rs.1,500/-.

[SUNIL P. DESHMUKH, J.]

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