

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 10854 OF 2014

Bhagwan s/o Arjun Panchpinde	.. Petitioner
VS	
Hari s/o Punaji Chikse	.. Respondent

Mr. R. K. Jadhvar, Advocate for petitioner
Mr. D. M. Shinde, Advocate or respondents

CORAM : SUNIL P. DESHMUKH, J.
19TH OCTOBER, 2015

ORDER:

1. Heard learned counsel for the petitioner and learned counsel for the respondent.
2. Petition has been moved against order dated 3-11-2015 on Exhibit-36 in special civil suit no. 259 of 2013, whereunder Civil Judge, Senior Division, Aurangabad, allowed respondent-plaintiff's request for sending document (Exhibit-22) for opinion of the handwriting expert.
3. The suit is for specific performance of the contract on the basis of agreement for sale dated 29-08-2012 executed by defendant-present petitioner in favour of respondent. The defendant, according to plaintiff, had put his thumb impressions and also signatures on the document.

4. Application (Exhibit-36) had been opposed by the petitioner-defendant, stating that the same is not maintainable as his signature is already on record and several questions with respect to the same have been asked.

5. It is submitted by plaintiff, however, that defendant had initially accepted execution of document, however, has purportedly denied the same in examination-in-chief and cross examination.

6. While the learned judge had passed the order referring the document to handwriting expert, he has considered that there is a reference to that the document bears signatures and thumb impressions of the defendant and the same has been denied by defendant during the course of his cross examination. Under the circumstances, the court thought it fit to send the document to the handwriting expert.

7. Learned counsel for the petitioner contends, that was not the stage when the signature could have been send to the handwriting expert.

8. However, learned counsel for respondent – plaintiff contends that denial by petitioner came only in examination and

during cross examination. In the circumstances, no fault should be found with the order impugned.

9. Having regard to aforesaid, I do not think that this is a case wherein powers of this court deserve to be exercised.

10. Writ petition as such is not being entertained and is rejected.

SUNIL P. DESHMUKH, J.

pnd