

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

9 WRIT PETITION NO. 12416 OF 2016

SHAIKH HABEEB SHAIKH AMIR AND OTHERS
VERSUS
HAKEEM BAHAUDDIN SAHEB MIYAN AND OTHERS

Smt. A.N. Ansari, Advocate, for petitioners.

CORAM: T.V. NALAWADE, J.

DATE : 22 DECEMBER 2016

ORDER:

1) The petition is filed by some of the defendants from Regular Civil Suit No.521/2012 to challenge the order made on Exhibit 54 by learned Civil Judge Senior Division Jalna. Heard learned counsel for the petitioners.

2) The suit is filed by present respondent Nos.1 and 2 for relief of specific performance of agreement of sale dated 1-2-2011. The defendants, present petitioners, have denied the execution and have contended that they have not signed the document. It appears that evidence is given by the plaintiff of himself and of one witness to prove the execution and the document is given Exhibit 34.

It appears that due to defence taken by the present petitioners that it is a forged document, the plaintiffs applied for sending the document with specimen signature of the present petitioner to the expert to seek opinion.

3) When execution was proved the burden is on the defendants to prove that it is forged. But in spite of that plaintiffs wanted to bring opinion of the expert on record. It appears that possession is with the petitioners, defendants. In view of these circumstances this Court holds that there was virtually no reason for the present petitioners, defendants to take objection to the aforesaid application given by the plaintiffs. It can be said that if the defendants want to prove that it is forgery that evidence will help the defendants in proving their case. It is clear that the defendants are playing delaying tactics and only with that view the present petition is filed. There are no merits in the present petition. The petition stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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