

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

WRIT PETITION NO. 12641 OF 2016

KANTABAI VILAS KEDAR
VERSUS
SUBHASH SHRIRAM HEKADE

...
Advocate for Petitioner : Shri Deshpande Sanjay M.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 05th January, 2017

Per Court:

1 The Petitioner is aggrieved by the order dated 02.08.2016 delivered by the Trial Court by which the application Exhibit-48 filed by the Petitioner/ original Defendant has been rejected.

2 I have heard the strenuous submissions of the Petitioner. The grievance is that the application Exhibit-48 is filed by the Petitioner for sending the agreement to cancel Isar-Pavati dated 26.04.2011 to the Handwriting Expert, Aurangabad for his opinion. It is further submitted that earlier such an application was made by the Plaintiff and by order dated 31.07.2013, the said application Exhibit-29 was allowed. Though the Handwriting Expert from CID, Aurangabad has submitted his report, the Petitioner is not agreeing with the report so submitted. Hence, as a

Defendant, the Petitioner seeks an opportunity of sending the same document to another Handwriting Expert for yet another opinion.

3 There is no dispute that by application Exhibit-29 filed by the Plaintiff, the said document was already referred to the Handwriting Expert belonging to the CID, Aurangabad. The admitted document dated 16.12.2010 titled as “Isar Pavati” and the disputed document dated 26.04.2011 titled as “Isar Pavati Radda Karne Babat (Agreement to Cancel Isar Pavati)”, were subjected to the scrutiny of the Handwriting Expert from CID, Aurangabad. Merely because the Petitioner is not happy with the report submitted by the said authority, which reveals dissimilarity in writing characteristic thereby indicating different authors, cannot be a ground for once again sending the documents to the Handwriting Expert.

4 In the light of the above, I do not find that the Trial Court has committed any error in passing the impugned order dated 02.08.2016 and the said order is neither perverse nor erroneous. This Writ Petition being devoid of merit is, therefore, dismissed.