

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 212 OF 2015

Santosh Tanka Mali and others

.. **Petitioners**

Versus

Annapurna Daga Patil and others

.. **Respondents**

Shri Shailesh P. Brahme, Advocate for the Petitioners.

Shri Manish V. Bhamre, Advocate for Respondent Nos. 1 to 10.

CORAM : S. V. GANGAPURWALA, J.

DATE : 14th December, 2017

PER COURT :

1. Mr. Brahme, learned advocate for the petitioners submits that the plaintiff No. 2 and his father had executed an agreement in favour of the defendant. After the death of the father of the plaintiffs, the plaintiffs have filed the suit for perpetual injunction. Pursuant to the agreement in question the defendants were put in possession. As the signatures are being denied by the plaintiffs, it is necessary to refer the document to the hand writing expert. The application was made to that

effect. The court without considering the relevancy of the same has rejected the application.

2. The learned advocate for the respondents supports the order.

3. The disputed document is not yet confronted to the plaintiffs. The defendants naturally will have to confront the document to the plaintiffs in the evidence. The court can consider the evidence adduced by the plaintiffs after the cross examination is conducted. The reasoning of the learned trial judge that the plaintiffs have filed the application late does not stand to any reason. However, as the document and the signatures on the document has not yet been confronted to the plaintiffs, at this stage it would not be necessary to refer the document to the hand writing expert.

4. Considering the above, I pass the following order.

ORDER

I] After the document is confronted to the plaintiffs in the evidence and depending upon the evidence that would

be adduced with regard to the said document the defendants may renew his request for referring the disputed document to the handwriting expert.

II] If such an application is made, the trial court would consider the said application on its own merits and impugned order would not be an impediment to consider the said application afresh.

III] The trial court shall endeavour to decide the suit expeditiously.

5. The writ petition is accordingly disposed of. No costs.

[S. V. GANGAPURWALA, J.]

marathe/Dec.17