

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

WRIT PETITION NO. 2682 OF 2018

VENKAT NAGORAO KOUDGAVE
VS.
RAMAKANT NARAUHAN PATIL AND ANOTHER

...

Advocate for Petitioner : Shri A. M. Gholap

...

**CORAM : RAVINDRA V. GHUGE, J.
DATED : 21st March, 2018.**

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PER COURT :-

1] The petitioner is aggrieved by the order dated 05/02/2018 passed by the Trial Court by which application Exh. 106, filed by the petitioner/plaintiff in Regular Civil Suit No. 29/2011, has been rejected and the document filed alongwith list of documents Exhibit 56 has not been referred to the hand writing expert for his opinion.

2] Learned advocate for the petitioner has strenuously criticized the impugned order. His contention is that the document which is sought to be referred to the hand-writing expert is in the hand writing of the father of defendant No.1 i.e. Narayan Dashrath Patil (Jadhav). A sale-deed was

executed on oral agreement and the said document was therefore, necessary to be proved. Considering the denial by the defendant, it became imperative to prove that the document was in the hand writing of the father of defendant No.1.

3] Learned advocate for the petitioner has tendered across the bar certain documents stating that they are the documents which were in the hand writing of the father of defendant No.1. Same is taken on record and marked as 'X' for identification.

4] A cursory look at the document 'X' indicates that it carries no recitals, there is no signature of any person on the said document and the said document appears to be a scribbling of certain numerical figures and purportedly indicates some money being given or received I do not find that the said document would carry any evidentiary value.

5] Moreover, the petitioner/plaintiff has not averred in the plaint about the said document 'X' which is said to be at Serial No. 3 in the list of documents Exh.56. There are no pleadings with regard to the contents of the document 'X' in

the plaint. So also, when the plaintiff led evidence, he could have taken steps for the production of the said document and for proving it.

6] The Trial Court has concluded that in the absence of pleadings, any document which does not indicate the author or any recital and does not carry any signature, need not be referred to the hand writing expert. So also the father of defendant No.1 has also passed away and the specimen handwriting would not be available.

7] Considering the above, I do not find that the impugned order could be termed as perverse or erroneous. Thus, the petition being devoid of merit is dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-

