

- 1 Namdeo Maruti Bhingale,
Age : 75 years, Occupation : Agriculture,
R/o Katwada, Taluka Georai,
District Beed. ..Orig.Plaintiff
- 2 Ramesh s/o Chandrabhan Bhingale,
Age : 42 years, Occupation : Agriculture,
R/o Katwada, Taluka Georai,
District Beed.
- 3 Vittal s/o Chandrabhan Bhingale,
Age : 35 years, Occupation : Agriculture,
R/o Katwada, Taluka Georai,
District Beed.
- 4 Ashabai Ganesh Bhingale,
Age : 32 years, Occupation : Agriculture,
R/o Katwada, Taluka Georai,
District Beed.
- 5 Dada Ganesh Bhingale,
Minor u/g of real mother
Ashabai Ganesh Bhingale,
Age : 32 years, Occupation : Agriculture,

R/o Katwada, Taluka Georai,
District Beed.

...RESPONDENTS
(Orig. Defendant Nos.2 to 6).

...
Advocate for the Petitioner : Ms.S.V.Salunke h/f Shri Salunke V.D..
Advocate for the Respondents : Shri D.G.Nagode.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 09th January, 2018

Oral Judgment :

1 Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2 The Petitioner/ original Defendant No.1 has put forth prayer clause 10-B as under:-

"(B) By issuing a writ of certiorari or any other appropriate writ, order or directions in the like nature, the impugned order dated 21.07.2016 below Exhibit 38 in RCS No.794 of 2014 passed by the learned Joint Civil Judge, Junior Division No.2, Georai may kindly be quashed and set aside."

3 The Trial Court, by order dated 21.07.2016, has allowed the application Exhibit-38 filed by the Plaintiff in RCS No.794/2014 and has directed that the thumb impression of the deceased Laxman appearing on the Sale Deed and Partition Deed be referred to the fingerprint expert for his opinion. For carrying out the exercise of identifying the said thumb

impression, the Plaintiff was directed to deposit Rs.5000/- and supply the name of the fingerprint expert, who could examine these documents.

4 The grievance strenuously voiced by the learned Advocate for the Petitioner is that Laxman was an able bodied person. He has executed the Sale Deed in favour of the Petitioner and on the basis of the Sale Deed, the revenue entries have also been altered. There is no reason for referring the said documents to the fingerprint expert.

5 It is further contended that the predecessor-in-title Maruti had four sons. After he passed away, an oral partition has taken place amongst the brothers. Laxman has died issue less. The contention of the Plaintiff (Namdeo s/o Maruti Bhingale) that Laxman was insane, is totally incorrect. There was no bogus sale deed executed.

6 The learned Advocate appearing on behalf of the Respondents points out from the Written Statement filed by the Petitioner/ Defendant No.1 that the Petitioner has mentioned in paragraph 6 that it was true that Laxman was unwell for about 15 to 20 years on account of various ailments. It is true that Laxman was carried to Majalgaon by the Petitioner for treatment. It is then contended that since there is a suspicion surrounding the Sale Deed No.952 of 1997, it would be appropriate to refer the Sale Deed and Partition Deed, which bear the thumb impression of Laxman, to the fingerprint expert.

7 It appears from the record and the submissions of the learned

Advocates that there is a serious dispute as regards the physical status of Laxman. Even the Petitioner admits in the Written Statement that Laxman was unwell for about 15 to 20 years and was frequently taking treatment. The Petitioner had also taken him for treatment.

8 I find that it would cause no prejudice to any of the litigating sides if the thumb impression, said to be of Laxman, on the sale deed as well as the partition deed, are referred to the fingerprint expert as an opinion, which would be expressed by the said expert, would assist the Trial Court in adjudicating the suit before it. Unless the impugned order could be termed as being perverse or erroneous or likely to cause gross injustice to the litigating sides, no interference is called for.

9 In the light of the above, this Writ Petition being devoid of merit is, therefore, dismissed. Rule is discharged.