

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 WRIT PETITION NO. 11726 OF 2015

RAM GURAPPA DAREKAR AND ANOTHER
VERSUS
ROSHANBEE MEHTAB PATEL

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Advocate for Petitioners: Mr.A. V. Patil Indrale
Advocate for Respondent : Mrs. M. S. Mhase

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CORAM : V. K. JADHAV, J.
DATED : 01st March, 2018

PER COURT:-

1. Heard both sides. By consent, the matter is taken up for hearing at admission stage.
2. It appears from the impugned order passed below Exh.26 dated 12.10.2015 in R.C.S. No. 37 of 2014 that the learned judge of the trial court has rejected the application Exh.26 on the ground that issues yet to be framed and the evidence of the plaintiff yet to be started and as such there is no purpose to call expert's opinion at this stage. The learned judge has also observed that the application is premature.
3. Learned counsel appearing for the respective parties submit that issues are framed and the trial has been commenced. The learned counsel appearing for the respondent submits that the

respondent / original defendant has no objection to refer the said document dated 04.05.2007 to the handwriting expert, if, the plaintiff accepts that his suit is based upon the said document.

4. It appears from the pleadings of the parties to the suit that the suit of the petitioner / plaintiff is based upon the document dated 04.05.2007 and so far as second document is concerned that is nothing but a draft of the sale deed which was not at all executed. At the most, subsequent document may be taken in to consideration while deciding the suit instituted on the basis of the disputed document dated 04.05.2007. Since, learned judge of the trial court has rejected the application on the ground that the same has been filed at the premature stage, this writ petition is disposed of by granting liberty to the petitioner/plaintiff to file an application for the same relief and the learned judge of the trial court shall decide the said application afresh by taking a specific note that the other side has no objection for referring the said document dated 04.05.2007 to hand writing expert. Writ petition is accordingly disposed of. No costs.

(V. K. JADHAV, J.)

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vsm/