

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

**WRIT PETITION NO.759 OF 2018**

**SANTOSH SOPAN WAVHAL  
VERSUS  
KALYAN JAGANNATH KHARSADE DIED LRS GANGUBAI  
JAGANNATHKHARSADE AND OTHERS**

...

Advocate for the Petitioner : Shri C. V. Dharurkar  
Advocate for Respondent Nos. 1-A to 1-D and 2 to 4 :  
Shri A. M. Gholap

...

**CORAM : RAVINDRA V. GHUGE, J.  
DATED : 15<sup>th</sup> JANUARY, 2019.**

...

***PER COURT :***

1. The petitioner, who is original defendant No.8, is aggrieved by the order dated 31/08/2017 passed by the Trial Court, by which, the signature of one Jijabai Mahadeo Thombre has not been referred to a handwriting/finger print expert and application Exhibit 136 filed by the petitioner in RCS No. 571/2000 has been rejected.

2. I have heard the learned Advocates for the respective sides. Shri Gholap strenuously opposed this petition and submits that an application for seeking opinion of an expert should be filed only after the recording of oral evidence is

concluded.

3. The learned Advocate for the petitioner submits that Jijabai is a person, who claims to have purchased the entire suit land from Radhakisan Piraji Kadam on 30/05/1969 and from Babu Bhikaji Kadam on 07/06/1982, to the extent of their respective shares. The dispute between the plaintiff and the petitioner is that the petitioner claims that a portion of the suit land originally owned by Babu which was purchased undisputedly by Jijabai, was subsequently purchased by Sitaram Nagnath Sonwase from Jijabai on 11/09/2000. In contra distinction, the plaintiff claims that he has purchased the entire land holding of Jijabai on 01/08/1990 which includes the portion of land which Jijabai has purchased from Babu. As such, the dispute is only to the extent of the portion of the land originally owned by Babu in view of the claim of this petitioner that he purchased that portion from Sitaram on 18/05/2007.

4. Jijabai is now a witness of the plaintiff. She has stepped into the witness box. Her affidavit in lieu of examination-in-chief is sworn and she claims that the sale-deed, by which, she

sold the land to Sitaram, is not in existence. She has completely denied the existence of the same. She is, however, yet to deny her thumb impression which according to the petitioner appears on the sale deed which she executed in favour of Sitaram.

5. The Trial Court has rejected application Exhibit 136.

6. In view of the above, this petition is disposed off with the observation that the petitioner would proceed to cross-examine Jijabai. If she denies her thumb impression on the said sale deed dated 11/09/2000, the petitioner would be at liberty to seek an adjournment in the cross-examination and move a fresh application for referring the thumb impression of Jijabai to a finger print expert. The Trial Court would then consider the said application and shall order a time frame, in which the finger print expert would submit his report. The report would then be subject matter of adjudication as is permissible in law.

**(RAVINDRA V. GHUGE, J.)**

shp/-