IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

960 WRIT PETITION NO.2107 OF 2019

SANJIVANI RANGRAO ANDHARE
VERSUS
PRAKASH SHANKARRAO KHATWAD
...
Advocate for Petitioners : Mr. Ingale Vivekanand V.
Advocate for Respondents : Mr. Deshmukh V. B.
...
CORAM : V.K. JADHAV, J.
Dated: February 04, 2021
...

PER COURT :-

1. By consent, heard finally at admission stage.

2. The petitioner is the original plaintiff filed an application Exh.26 for sending the documents for opinion of the hand writing expert submitted by the respondent/defendant alongwith exh.22 at serial nos. 1,2 and 3. It is the case of the petitioner/plaintiff that she is the founder member of the society and the society has allotted share certificate to each plot holder. The petitioner was allotted plot no.1 on 10.09.1998. Said certificate is placed on record, marked at 'Exh.A.' It is the case of the respondent/defendant that by executing the consent-deed the petitioner herself given up her

claim and the petitioner has also issued a receipt about the refund of the amount.

3. Respondent/defendant has placed those documents alongwith list Exhibit 22. Petitioner/original plaintiff has disputed the genuineness of those documents and also disputed her signature over the said documents. According to the petitioner/plaintiff, those documents and signatures thereon are forged one and does not bear her signature.

4. The learned Judge of the trial court has rejected the said application exh.26 by impugned order dated 21.9.2018 with the reason that since the dispute is regarding the genuineness of the documents filed with Exh.22 and signature of the petitioner/plaintiff, the Indian Evidence Act provides number of modes to prove it such as Section 45, 47, 67 and 73. The petitioner/plaintiff has instituted the suit for perpetual injunction. If there is a specific plea doubting the genuineness of those documents and forged signature of

the petitioner/plaintiff on those documents, it is for the trial court to pass appropriate orders on the application Exh.26. In view of the same, I proceed to pass the following order.

O R D E R

I. Writ Petition is hereby partly allowed.

II. The impugned order dated 21.9.2018 passed by the learned Civil Judge, Junior Division, Osmanabad, District Osmanabad below Exh.26 in R.C.S. No.44 of 2015 is hereby quashed and set aside.

III. Trial Court shall decide the application Exh.26 afresh, by considering the specific provisions of the Indian Evidence Act and pass appropriate orders on merits.

IV. Writ Petition is accordingly disposed off. No costs.

(V.K. JADHAV, J.)

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aaa/-