

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

47 WRIT PETITION NO.7733 OF 2022

MANGALBAI PANDURANG PATIL AND OTHERS
VERSUS
CENTRAL BANK OF INDIA THROUGH ITS MANAGER AND OTHERS

Shri. A. D. Hande, Advocate for the petitioners

**CORAM : M. G. SEWLIKAR, J.
DATED : 25th JULY, 2022**

PER COURT :-

1. By this application, the petitioners are challenging the order dated 8th February, 2022 below Exhibit 124 in Regular Civil Suit No. 399 of 2012 whereby his application for sending the documents at Exhibit at 80, 81, 82, 83 and 85 has been rejected by the learned 2nd Joint Civil Judge, Senior Division, Nanded.

2. Facts in a nutshell are that respondent i.e. the Central Bank of India filed a suit for recovery of amount of loan against the petitioner and others including guarantor alleging therein that husband of petitioner No. 1 and father of petitioner Nos. 2 to 5 had taken loan from the Central Bank of India.

3. The defendants i.e. petitioner Nos. 1 to 5 appeared

and resisted the suit by filing their written statement. In the written statement they denied to have availed any loan by deceased Pandurang.

4. Issues were framed. Plaintiff-Central Bank of India tendered evidence. After the cross-examination of defendant No. 1 was over, defendant No. 1 filed the instant application for sending the signature on the documents Exhibit 80, 81, 82, 83 and 85 to Hand Writing Expert.

5. Learned 2nd Joint Civil Judge, Senior Division, Nanded by his order dated 8th February, 2022 below Exhibit 124 in Regular Civil Suit No. 399 of 2012 rejected the application holding that the petitioners have not placed on record the admitted signature of the deceased Pandurang. This writ petition is preferred against this order.

6. Learned counsel Shri. Hande for the petitioners submits that the deceased Pandurang was a Medical Officer in Zilla Parishad. There are several documents in the Zilla Parishad including service book which bear signatures of the deceased

Pandurang. He submits that if these documents are called petitioner will be able to prove that the documents Exhibit 80, 81, 82, 83 and 85 did not bear the signature of the deceased Pandurang.

7. I have given thoughtful considerations to the submissions made by the learned counsel for the petitioner. Admittedly, the petitioners have not produced any document bearing the admitted signature of the deceased Pandurang. It appears from the perusal of the order of the learned Trial Court that a question was put to the petitioner No. 1 in her cross-examination whether deceased Pandurang had taken loan to which she answered that she did not know. The learned Trial Court has correctly observed that she did not deny that the deceased Pandurang had taken loan. The learned Trial Court did not commit any error in rejecting the application especially when there was no document bearing admitted signature before him. In this view of the matter, application is devoid of any substance. Hence it is dismissed.

8. Learned counsel Shri. Hande for the petitioner

submits that he may be permitted to make an application again before the Trial Court giving the documents bearing admitted signature of the deceased. The petitioner is permitted to do so. If he makes any application in this regard, the Trial Court shall deal with this application on its own merits.

[M. G. SEWLIKAR, J.]

ssp