

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

WRIT PETITION NO.11705 OF 2021

**SHRI. VITTHAL MANGA PATIL
VERSUS
SHRI. SUNIL DINKAR LANDGE**

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Advocate for Petitioner : Mr. Dardhan Dinkarrao Pokharkar

Advocate for Respondent : Mr. M. S. Kulkarni

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 15th JULY, 2022

PER COURT :

1. The petitioner is aggrieved by the order dated 09/08/2021 passed by the learned 3rd Joint Civil Judge Senior Division, Dhule below Exhibit-61 and Exhibit-63 in Regular Civil Suit No.142/2016, thereby rejecting the applications filed by the petitioner for referring the documents to the handwriting expert.

2. In the suit, petitioner/plaintiff sought a declaration that sale deed of the suit property dated 24/11/1995 be declared null and void and not binding on him. Relief of removal of encroachment made by the defendant/respondent and possession of the encroached portion is also claimed. During pendency of the suit, petitioner by application Exhibit-15 sought direction to the defendant to produce original sale deed dated 24/11/1995. The said application was allowed by the trial Court. The defendant thereafter

filed application stating that original sale deed is not available and therefore, he is not in a position to produce the same.

3. Petitioner thereafter filed application that impression of both his thumbs be taken and the same be sent alongwith original sale deed to the Government handwriting and fingerprint expert and report be called, as to whether petitioner's thumb impression is there on the disputed sale deed. This application is rejected by the trial Court holding that the question of getting handwriting expert's opinion on the original sale deed is kept open, as and when original sale deed is placed on record, it can be done.

4. The petitioner then filed application Exhibit-61 with a prayer that register of original thumb impressions be called from Registrar Office and the same may be forwarded to the handwriting expert. By application Exhibit-63, petitioner prayed that impression of both his thumbs be taken in front of the Court and the same alongwith register wherein entry of sale deed dated 24/11/1995 is taken, be forwarded to the handwriting and fingerprint expert of Government Forensic Laboratory and he may be directed to give report as to whether petitioner's fingerprint is there on the original register or not.

5. The trial Court rejected both these applications on the ground that if the register from Registrar Office which contain

entries of other sale deeds and the thumb impression register/book is called, the same since contain entries of other sale deeds and thumb impressions of other executants, it would not be proper to forward these registers to handwriting and fingerprint expert. The same would also hamper work of Registrar Office.

6. The trial Court is justified in holding that registers cannot be forwarded, as it contain entries of other sale deeds also and thumb impressions of other executants and the same would hamper work of Registrar Office.

7. However, taking into consideration the controversy in the suit, this Court is of the view that if handwriting expert inspects the register as well as thumb impression book, the same would help the trial Court to factually adjudicate the dispute between the parties and to arrive at a just decision. In that view of the matter, the impugned order is liable to be modified. Applications Exhibit-61 and Exhibit-63 are allowed in the following terms :-

- I) Petitioner's thumb impression of both the thumbs be taken before the trial Court and the same shall be forwarded to the handwriting and fingerprint expert for comparing the same with registration register as well as thumb impression book in the Registrar Office, Dhule.

- (II) Handwriting and fingerprint expert from the Government Forensic Laboratory shall visit Registrar Office, Dhule and verify the registration register as well as thumb impression book and compare the thumb impression of petitioner with the thumb impressions in the registration register as well as thumb impression book and submit report in that behalf within a period of three weeks from the date of receipt of writ of this order.
- (III) This entire exercise shall be carried out within a period of four weeks from the date of receipt of writ of this order.

With these directions, the writ petition is disposed of.

(NITIN B. SURYAWANSHI, J.)