



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1259/2019

Vikramsingh S/o Brahmandeosingh
aged about 67 Yrs., Occ. Retired,
R/o Om Nagar, Chankapur Khaperkheda,
Tahsil Saoner, District Nagpur.

... Petitioner

- Versus -

Rajendrasingh S/o Narsihasingh,
aged about 62 Yrs., Occ. Business,
R/o Om Nagar, Chankapur Khaperkheda,
Tahsil Saoner, District Nagpur.

... Respondent

Mr. P. S. Tiwari, Counsel for the Petitioner.

CORAM: MRS. VRUSHALI V. JOSHI, J.

DATE OF RESERVING THE JUDGMENT : 19.10.2023

DATE OF PRONOUNCING THE JUDGMENT : 20.10.2023

JUDGMENT

Heard the learned counsel for the petitioner. None
appears for the respondent though served.

2. **Rule.** Rule made returnable forthwith.

3. The petitioner is challenging the order dated 6.12.2018 passed by the 3rd Joint Civil Judge, Junior Division, Saoner on application Exh.29 in R.C.S. No.25/2012. The petitioner and respondent have filed the civil suit against each other and the suits are consolidated. The petitioner is the original plaintiff in the present matter has filed R.C.S. No.25/1012 for declaration and cancellation of agreement dated 25.7.2009 against the defendant whereas the defendant respondent in the present matter has filed R.C.S. No.126/2012 against the present petitioner for specific performance of contract.

4. Both suits are heard together by the learned 3rd Joint Civil Judge, Junior Division, Saoner. The present respondent in R.C.S. No.126/2012 has previously filed an application (Exh.45) for appointment of Handwriting Expert and the same was allowed and the Handwriting Expert has submitted his report at Exh.42. Instead

of challenging the said report, the respondent has filed an application for sending agreement dated 25.7.2009 for second opinion to Government Handwriting Expert. The trial Court has rejected the said application. The said order was challenged before this Court in Writ Petition No.2178/2015 and this Court has dismissed the writ petition holding the same as without merits. Again the respondent has filed the application for appointment of Government Handwriting Expert and also to call second report. Said application was opposed by this petitioner stating about the order passed by this Court in Writ Petition No.2178/2015 and that the rejection of application is finalised but the trial Court has allowed the application (Exh.29) and, therefore, the petitioner has filed this petition before this Court.

5. Heard the learned counsel for the petitioner and also gone through the documents filed on record.

6. The petitioner has filed this petition challenging the order passed by the trial Court on Exh.29. Though the earlier order

dated 1.9.2016 was passed by this Court dismissing the Writ Petition No.2178/2015 filed by the respondent for rejecting the application for sending the document to the Handwriting Expert and the said order has attained the finality, again the respondent has filed similar application (Exh.29) before the trial Court and the learned trial Court has also ignoring this fact allowed the application which is illegal in the eye of law. Once the application was rejected, similar application cannot be entertained by the same Court in same suit. As the trial Court has ignored the order passed by this Court in earlier round of litigation for the same cause the order passed by the trial Court needs to be set aside. Considering the pendency of the civil suits since 2012 the suits are expedited.

7. Rule is made absolute in the aforesaid terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)