



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 2510 of 2019

[Sanjivani W/o Raju Katangale and anr. ..vs.. Rajabhau S/o Nanaji Nikam and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. B. Mohta, Advocate for the petitioners

CORAM : ANIL L. PANSARE J.

DATED : 14-10-2024

Heard Mr. S. B. Mohta, learned counsel for the petitioners.

2. None appeared for the respondents though served.

3. The petitioners – plaintiffs have filed suit for specific performance of contract. Petitioner no. 1 entered the witness box and filed document titled 'Receipt' dated 12-7-2015 allegedly issued by the respondent no. 1/ original defendant no. 1 acknowledging payment of Rs. 4,41,500/-. In addition, the respondent no. 1 has also acknowledged the payment made by the petitioners of certain amount which was made through cheques.

4. The petitioner deposed that this receipt bears signature of respondent no. 1. The counsel for respondent no. 1 objected to exhibit the document on the count that signature is not of respondent no. 1.

5. Thus, according to the petitioners, signature on receipt is of respondent no. 1. As against, respondent no. 1 disputed such status. In the light of above, the trial Court refused to exhibit the document.

6. Learned counsel for the petitioners submits that the purpose of filing petition will be served, if the trial Court is directed to exhibit the document and to decide the issue of admissibility at a later stage of the proceedings including at the time of final hearing.

7. I find substance in the aforesaid submission in as much as the contents of the receipt could be tested on the basis of entries in account books of the petitioners as well as respondent no. 1. The document indicates that certain payment was made by petitioner no. 1 through cheques. This payment is verifiable through the bank statements which could be produced by either side. The contents of documents would further be verified on the touchstone of other documents as also evidence of the parties. The another way would be to examine or compare signature of respondent no. 1 with that of admitted signature and/or to send the matter to the handwriting expert.

8. In view of the above, the petition is partly allowed. The document titled 'Receipt' dated 12-7-2015 shall be marked exhibit subject to the objection raised by respondent no. 1. The contents of document could be then tested in the light of what has been stated in the body of the order.

9. Writ petition is disposed of in above terms with no order as to costs.

(Anil L. Pansare, J.)