



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

58 WRIT PETITION NO. 2188 OF 2024

Shankar Haribhau Chaval
Age : 34 years, Occu. Agriculture,
R/o. Mantha,
Taluka – Mantha, Dist. Jalna.

... PETITIONER
(original plaintiff)

VERSUS

1. Vilas Vitthalrao Chaval
Age : 43 years, Occu. Agriculture,
R/o. Near S.B.H. Mantha,
Taluka – Mantha, Dist. Jalna.

2. Archana Namdev Chaval
Age : 36 years, Occu. Household,
R/o. Near S.B.H. Mantha,
Taluka – Mantha, Dist. Jalna.

... RESPONDENTS
(original defendants)

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- Mr. S. P. Shah, Advocate for the Petitioner
 - Mr. M. M. Joshi, Advocate for Respondent No. 1
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CORAM : ROHIT W. JOSHI, J.
DATE : JUNE 30, 2025

ORAL JUDGMENT:

1. The petitioner is plaintiff in R.C.S. No. 30/2015, which is filed by him against the respondent nos. 1 and 2 herein. It is the case of plaintiff that the sale deed dated 29.06.2012 purportedly executed by him in favour of respondent no. 1 does not bear his signature as

executant. The original sale deed dated 29.06.2012 is on record of R.C.S. No. 38/2013. This suit no. 38/2013 is filed by father of the petitioner challenging the sale deed dated 29.02.2012, which is also impugned in suit filed by the petitioner being R.C.S. No. 30/2015. The respondent nos. 1 and 2 are also arrayed as defendants in the said suit.

2. The petitioner had filed an application dated 17.10.2018 at 'Exhibit 25' *inter alia* praying that the original sale deed dated 29.06.2012 be called from the record of R.C.S. No. 38/2013 so as to send it for opinion of hand writing expert.

3. The learned counsel for the petitioner contends that no prejudice will be caused by calling the document from record of R.C.S. No. 38/2013 to the record of present suit. He contends that prayer is innocuous and should not be allowed by the learned Trial Court.

4. Per contra, learned advocate for the respondents contends that that the petitioner could have very well moved application in the suit i.e. R.C.S. 38/2013, if he so desired. He draws attention to the fact that on earlier occasion an application was filed by the petitioner vide 'Exhibit 19' seeking directions to the defendants/respondents to produce the original sale deed dated 29.06.2012 on record of R.C.S. 30/2015. He contends that when it was pointed out that the original was filed in R.C.S. No. 38/2013, which is a suit filed by father of the petitioner, the said application was withdrawn unconditionally without reserving any

liberty. He therefore, contends that the application at 'Exhibit 25' was not tenable in view of the earlier application being not pressed.

5. Admittedly, the present petitioner is a party to R.C.S. No. 38/2013, where the original sale deed is filed. The present petitioner, who is a defendant in R.C.S. No. 38/2013 has filed written statement in the said suit, disputing his signature as executant on the document. If the petitioner so desires, he can move appropriate application for examination of the document by a hand writing expert in the said suit. There is no need to call the original sale deed from record of R.C.S. No. 38/2023 in R.C.S. No. 30/2015. Petition is, therefore, **dismissed**.

6. At this stage, the learned counsel for the petitioner makes a request that both the suits may be ordered to be allotted to the same learned Judge. It is further requested that the trials of the suits may be consolidated.

7. The petitioner is at liberty to move an appropriate application for transfer of one of the two suits and for consolidation of the suits thereafter.

8. Such application/s, if filed, be decided on their own merits.

9. Civil applications, if any, stand **disposed of**.

[ROHIT W. JOSHI, J.]