



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

57 WRIT PETITION NO. 4932 OF 2025

JUNED AHMAD ABDUL RAHEMAN AND ANOTHER
VERSUS
HARIBHAU NANA KHOT AND OTHERS

Mr. V.B. Kulkarni, Advocate for the petitioners.

Mr. A.M. Salok & Mr. M.K. Bhosale, Advocate for respondent Nos. 1,2 & 4.

Mr. S.A. Deshmukh, Advocate for respondent No.3.

CORAM : KISHORE C. SANT, J.

DATE : 15.04.2025

PC :-

01. Heard learned Advocates for the parties. This petition is taken up for final disposal at the stage of admission by consent of the parties.

02. The petitioners have assailed an order dated 04.04.2025 passed by the learned III Jt. Civil Judge, Senior Division, Jalna, rejecting application of the petitioner/original plaintiff for sending document to hand-writing expert to ascertain signature of the defendant/respondent, on the basis of which a suit for specific performance is filed. The suit is filed in the year 2011 bearing Special Civil Suit No. 227 of 2011. In the meantime, the parties had approached this Court challenging interim orders. In one such Writ Petition No. 12577 of 2024, this Court had

passed an order on 21.11.2024 directing the Trial Court to decide the suit within a period of three months from the date of the order. It is reported that still extensions were sought by the Trial Court and last such extension was granted by order dated 11.03.2025 directing to conclude the suit within two months i.e. till 25.05.2025.

03. At such stage, the petitioner/plaintiff filed application on 20.03.2025 for referring the agreement to sell to hand-writing expert for opinion. The learned Trial Judge rejected the application by observing that now the suit is at an advanced stage. The written statement was filed on 31.03.2012, wherein the respondents had denied execution of agreement to sell. Thus, the petitioner had ample opportunity to make such prayer earlier. It is further observed that when the suit is made time-bound and evidence is completed, at that stage such application is filed. On merits it is observed that mere denial of signature is not sufficient to order for expert's opinion, though there being any other ground. Lastly, it is observed that the plaintiff is trying to delay the proceeding of the suit. Lastly, it is observed that already sufficient evidence is on record and expert's opinion is not required.

04. Learned Advocate Mr. Kulkarni for the petitioner vehemently

argued that it is necessary to refer the document to hand-writing expert. In the application, itself it is clearly stated that in the cross-examination of the respondents in February, 2025, he denied the signature. Defendant No.1 denied signature on the agreement to sell. At the same time, this witness accepted the signatures on the other documents and therefore it becomes necessary to refer the document to hand-writing expert. He submits that to do fair justice, it is necessary to refer the documents to hand-writing expert.

05. Learned Advocate Mr. Bhosale for respondent Nos. 1,2 and 4 vehemently opposes the petition. He submits that the Trial Court has rightly passed the order and no illegality is pointed out. He relies upon judgment reported in the case of **Chennadi Jalapathi Reddy Vs. Baddam Pratapa Reddy (Dead) Thr. Lrs and Anr., AIR Online 2019 SC 970.**

06. This Court has heard submissions and considered the impugned order from the angle of judgment in **Chennadi Jalapathi [supra]**. The Hon'ble Apex Court held that when sufficient evidence is available on record, document need not be sent to hand-writing expert. In that case though the High Court has relied upon expert's opinion, the

Hon'ble Apex Court observed that report of hand-writing expert was liable to be discarded in that case. In the said case also in written statement itself, signatures were denied on the documents. Admitted signatures were the signatures obtained subsequent to filing of the plaint, from the documents like Vakalatnama, written statement etc. In the present case also as per the statement of the respondent, the admitted signatures are the signatures which are obtained subsequent to filing of the suit.

07. Considering the observations of the Trial Court, this Court does not find that any of the observations can be said to be perverse or against legality. It is also reported that the arguments of the defendant are over. Now, it is only for the plaintiff to advance the arguments.

08. Considering all the above, this Court is not inclined to allow this petition. It is clear on the face of the fact stated above that the application is filed to prolong the suit. In any case, there is no merit in the Writ Petition. This Writ Petition is dismissed with no order as to costs.

[KISHORE C. SANT, J.]