



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8686 OF 2024

Prabhavati Harishchandra Biradar Through Power Of
Attorney Dhananjay Harishchandra Biradar

VERSUS

Nilawati Shivajirao Salunke And Others

• Mr. P. R. Nangage, Advocate for the Petitioner

CORAM : R. M. JOSHI, J

DATE : MAY 05, 2025

PER COURT :

1. None for Respondents. Order dated 19.08.2024 passed by this Court indicates that notice was issued to Respondents for disposal of the Petition finally on returnable date. Absence of Respondents indicate that they have no inclination to oppose the present Petition.

2. Petitioner is Defendant No. 1 in RCS No. 54/2015. He filed application for referring the disputed document to the handwriting expert. An order came to be passed on 11.12.2019 to that effect by the Trial Court. The report came to be received from the handwriting expert on 11.07.2020. It is thereafter Defendant examined himself and his evidence was over on

27.01.2022. In July, 2022 application was filed for issuance of witness summons to handwriting expert. Handwriting expert by communication dated 20.07.2023 has called upon the Petitioner/Defendant No. 1 to pay Rs. 16,500/-. Initially Petitioner was not prepared to pay this amount and insisted for payment of bhatta as provided by the rules. In this backdrop, application filed vide Exh. 162 came to be rejected by the Trial Court by impugned order dated 07.11.2023.

3. Learned Counsel for the Petitioner, on instructions, makes statement that Petitioner/Original Defendant No. 1 is ready to deposit Rs. 16,500/- with Trial Court towards bhatta payable to the handwriting expert, out of which a sum of Rs. 7000/- has already been deposited in Trial Court and has ready to deposit balance amount on next date of hearing before Trial Court.

4. Since the Trial Court has issued witness summons to the handwriting expert, the relevancy of the evidence to be led by said witness cannot be doubted. The issue arose before the Trial Court is about payment of bhatta as claimed by handwriting expert as per

rules, however, in view of statement made by the Petitioner about payment of Rs. 16,500/- claimed by handwriting expert, nothing survives for decision on the said issue. In the interest of justice, impugned order dated 07.11.2023 is set aside. Subject to Petitioner depositing balance amount as undertaken before next date of hearing before Trial Court, application Exh. 162 stands allowed.

5. If the amount is deposited, witness summons be issued afresh to the handwriting expert. Since the suit is pending from year 2015, the Trial Court is directed to decide the same on merit within a period of six months from today.

6. Petition stands disposed of in above terms.

(R. M. JOSHI, J.)