



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1008 WRIT PETITION NO. 13693 OF 2024

Baburao S/o Piraji Tidke,
Age :- 65 years, Occupation :- Agri.,
R/o. Khudnapur, Tq. Basmath,
Dist. Hingoli.

... PETITIONER

VERSUS

1. Gangadhar S/o Baburao Tidke,
Age :- 40 years, Occupation :- Agri.,
R/o. Khudnapur, Tq. Basmath,
Dist. Hingoli.

2. Madhav S/o Baburao Tidke,
Age :- 44 years, Occupation :- Agri.,
R/o. Khudnapur, Tq. Basmath,
Dist. Hingoli.

... RESPONDENTS

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- Mr. S. S. Chillarge, Advocate for the Petitioner
 - Mr. C. V. Thombre, Advocate for Respondent No. 1
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CORAM : ROHIT W. JOSHI, J.
DATE : JULY 04, 2025

ORAL JUDGMENT:

1. The present petitioner is defendant no. 1 in Regular Civil Suit No. 58 of 2015. The plaintiff in the said suit is respondent no. 1 in the present petition. The petitioner is father of respondent nos. 1 and 2. Respondent No. 1 has filed a suit seeking declaration of ownership over the suit properties on the basis of a document of partition titled as *Watanika (Smaran Tipan)* / वाटणीका (स्मरण टिपण), dated 09.11.2011. This

document is a Notarized document. During the course of evidence, this document is marked as 'Exhibit 30'. Defendant No. 1 has denied his signature on the said document in his written statement. After evidence of both parties was over, defendant no. 1 moved an application vide 'Exhibit 90', requesting that the signature on the disputed document at 'Exhibit 30' be sent for opinion of handwriting expert. It is stated that the signature can be compared with admitted signatures on the written statement, *Vakalatnama*, and one sale deed, which is on record at 'Exhibit 48'. The said application was opposed by the respondent - plaintiff. The learned Trial Court has rejected the application vide order dated 06.11.2024 on the ground that witness no. 4 for defendant no. 1, who is scribe of the document, had stated that he had written the document on the instructions of defendant no. 1. The learned Trial Court has observed that defendant no. 1 was trying to overcome the said admission by moving the said application.

2. Perusal of the impugned order demonstrates that defendant no. 1 has denied his signature on the document in the written statement itself. He has reiterated this stand during the course of his evidence. Merely because some admission has come on record in deposition of one of his witnesses will not by itself constitute sufficient ground to reject the application for referring the document for the opinion of a handwriting

expert. Needless to mention that the opinion of handwriting expert will only be a piece of evidence, which will have to be evaluated with other evidence on record. Likewise, the Court by itself can also compare signature on the document with other signatures of defendant no. 1.

3. In the considered opinion of this Court, normally when a person denies his signature on a document and intends to lead evidence of a handwriting expert, such request should not be turned down. The admission by scribe with respect to instructions for scribing the document, cannot be treated as an adequate ground for rejection of the application for referring the document for opinion of handwriting expert. As stated above, all the evidence, including the opinion, will have to be evaluated on merits at the stage of final hearing. In the considered opinion of this Court, the learned Trial Court has erred in rejecting the application.

4. The petition is, therefore, **allowed**. The petitioner is permitted to refer the disputed document at 'Exhibit 30' for opinion of handwriting expert. Learned Trial Court may consider asking the handwriting expert to inspect the original documents and to take photographs of the signature of the plaintiff on the said document and other signatures. The handwriting expert may also ask defendant no. 1 to provide his specimen

signatures. Likewise, apart from the signatures on plaint, *Vakalatnama*, and sale deed at 'Exhibit 48', it will be open for the learned Trial Court to ask defendant no. 1 to produce other documents bearing his admitted signatures on record for comparison, if the Trial Court deems it fit to do so.

5. With these observations, the writ petition is **disposed of**, as aforesaid.

6. The civil applications, if any, stand **disposed of**.

[ROHIT W. JOSHI, J.]