

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4420 OF 2025**

Sopanrao Baburao Vidhate

..Petitioner

Versus

Jyoti Balasaheb Desai & Ors

...Respondents

Mr. Prasad Shah, with Gunjan Shah, i/b Kayval Shah, for the
Petitioner.

CORAM: N. J. JAMADAR, J.

DATED : 8th APRIL 2025

P.C.:

- 1.** Heard Mr. Shah, the learned Counsel for the Petitioner.
- 2.** The challenge in this Petition is to an order dated 27th January 2025, passed by the learned District Judge, Vaduj, in RCA No. 50 of 2015, whereby an Application preferred by the Petitioner-Appellant to send the documents (Exhibits “24”, “34” “44” and “47”) for the opinion of the handwriting expert as regards the signatures of late Manohar Gopalrao Patil, came to be rejected.
- 3.** The Petitioner instituted a Suit against the daughter and wife of late Manohar Patil asserting that late Manohar Patil had executed an Agreement to sell the suit land on 4th October 1985 and had failed to perform the said contract.

4. The Suit was dismissed by a judgment and order dated 6th May 2015. The Petitioner carried the matter in Appeal.

5. In the Appeal, the instant Application was preferred to send the Agreement for Sale (Exhibit “24”) and other documents which purportedly contained the signatures of late Manohar Patil to the handwriting expert, as the Trial Court had, *inter alia*, observed that upon perusal of the Agreement for Sale (Exhibit “24”) and the Sale Deed (Exhibit “44”) one cannot fairly opine that the signature on the Agreement for Sale (Exhibit “24”) was exactly similar or identical with the signature of late Manohar Patil on the Sale Deed.

6. By the impugned order, the learned District Judge was persuaded to reject the Application observing, *inter alia*, that no relief of specific performance was claimed during the lifetime of late Manohar Patil; the said claim was instituted after his demise; no prayer to send the document for the opinion of the handwriting expert was made before the Trial Court and, even otherwise, admitted signature or handwriting of late Manohar to compare the same with the disputed signature of late Manohar Patil, was not available on the record of the Court.

7. Mr. Shah, the learned Counsel for the Petitioner, would urge that the learned District Judge proceeded on an incorrect premise that the certified copy of the document cannot be sent for analysis and opinion of the handwriting expert. Reliance was placed on a judgment of the

this Court in **Century Steel Traders Vs Polaris Steel Castings Pvt Ltd & Anr**,¹ wherein a learned Single Judge of this Court has, *inter alia*, observed that the opinion of the handwriting expert cannot be discarded for the mere reason that it was based on certified copy of a document.

8. I have perused the material on record. First and foremost, it is necessary to note that the judgment of the Trial Court is not solely based on the comparison of the signatures of the executant on the Agreement for Sale (Exhibit “24”) under Section 73 of the Indian Evidence Act. The Trial Court has ascribed myriad reasons for which the Plaintiff was entitled to a decree for specific performance. A prayer for sending the Agreement for Sale for the opinion of the handwriting expert thus cannot be premised on an observation made by the Trial Court. When it is the positive case of the Plaintiff that the Agreement for Sale (Exhibit “24”) has been duly proved in evidence, the propriety and correctness of the said observation can be appreciated by the Appellate Court.

9. Secondly, in the backdrop of the peculiar facts of the case, the learned District Judge was justified in declining to send the document for the opinion of the handwriting expert as there was no admitted signature and handwriting of late Manohar. In such a situation, the reference of the disputed document alone to the handwriting expert

¹ 2019(1) Mh.L.J. 303.

would not have served a fruitful purpose. The view taken by the learned District Judge thus does not merit interference in exercise of supervisory jurisdiction.

10. The Petition thus stands dismissed.

[N. J. JAMADAR, J.]