



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 5789 OF 2024

Smt. Aruna Panjabrao Sabane,
Aged about years, Occ: Business,
R/o. A-506, Ganesh Gauri, Gumasta Layout,
Kotwal Nagar, Nagpur, Tq. Dist. Nagpur **PETITIONER**

....**VERSUS**....

Dr. Santoshrao Madhavrao
Thakare,
Aged about 57 years, Occ: Service,
R/o. Ashirwad Heights, Ashirwad Nagar,
Murtizapur, Tq.Murtizapur, Dist.Akola 444007 **RESPONDENT**

Shri Z.Z.Haq, Advocate for petitioner.
Shri A.S.Dhore, Advocate for respondent.

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 23/04/2025

ORAL JUDGMENT

Heard the learned counsel for the petitioner as well as learned counsel for the respondent.

2. The present petition is filed being aggrieved by the order dated 17/08/2024 passed below Exh. 90 in Spl. Civil Suit No. 62/2021 by learned Civil Judge, Senior Division, Akola.

3. It appears that, by order dated 11/03/2024, the documents Exh. 68-C and 69-C were sent to the Handwriting Expert for submitting opinion whether signature and seal thereon are scanned or original. The said application was filed by the plaintiff which came to be allowed. The plaintiff had filed another application below Exh. 90 for directing the Handwriting Expert to inspect the documents at Exh. 68 and 69 entirely, which are already sent for examination.

4. It is the contention of the plaintiff that, the suit is filed for defamation, mandatory and prohibitory injunction. The documents are placed by the witness of the defendant namely Rita Tushar Deshmukh. The plaintiff wanted to seek the report of the expert on the entire contents of document investigation and inspection of the documents by comparing the same with the original specimen documents filed on record. The said application was opposed by the defendant on the ground that, the Handwriting Expert cannot opine about its genuineness. Moreover, the contents of the application are typed one. Therefore, there is no necessity for sending the

document to the Handwriting Expert.

5. The learned Civil Judge, Senior Division, Akola allowed the application on the ground that, it will assist to decide the matter finally. The learned counsel for the defendant submitted that the observation made by the learned Court in para 5 that, the documents filed alongwith list Exh. 92 being not disputed as a specimen documents of official correspondence, is incorrect. He has never admitted the said documents.

6. In my considered opinion, the documents in question have already sent to the Handwriting Expert for submitting his opinion whether signature and seal thereon are scanned or original. The contents are not handwritten, and its genuinity can be considered by the learned Court itself and not by the Handwriting Expert. If it would have been handwritten contents, such opinion of the Handwriting Expert may would have relevant. Though it is contended by the learned counsel for the plaintiff that, the original contents in Exh. 68-C and 69-C might have been raised and some other

contents are imprint on the same. However, such possibility is not raised by the plaintiff in his application. Moreover, the Handwriting Expert will not be the expert to opine on such aspect. It is a matter of evidence and analysis of the learned Court and not the authority of Handwriting Expert. As such, the impugned order passed on 17/08/2024 below Exh. 90 is unsustainable in law and liable to be quashed and set aside.

7. At this juncture, the learned counsel for the respondent makes a submission that, if there is any other remedy available in law, he may be permitted to avail it. The respondent is at liberty to take such remedy including the application to get the document examined from Forensic Expert.

8. As such, the petition is **allowed**.

9. The order dated 17/08/2024 passed below Exh. 90 in Spl. Civil Suit No. 62/2021 by learned Civil Judge, Senior Division, Akola is hereby quashed and set aside.

10. Accordingly, the petition stands **disposed of**.

(Smt. M.S.Jawalkar, J.)