


MHJN040026532024 	R.C.S.. No.333/2024 Sudhakar Maske -V/s- Tirtharaj Jaykar & ors.
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Order below Exh. 39

Present application is filed by the plaintiff for sending agreement dated 27.03.2018 to the handwriting expert.

2. It is submitted that present suit is filed for permanent injunction. The defendants came with the defence that plaintiff's father had orally agreed to sale the suit property to the defendant No.1 and accepted consideration amount of Rs.2,50,000/-. Thereafter, possession was also handed over. After demise plaintiff's father in the year 2013, the plaintiff and his brother executed agreement in favour of the defendant No.1 on 27.03.2018 and agreed to execute sale deed. After perusing written statement, the plaintiff apprehends forgery in respect of agreement dated 27.03.2018. He denies execution and his signatures on the agreement. Hence, he wants to send agreement dated 27.03.2018 to the handwriting expert for verifying his signatures.

3. Defendants have filed their say at Exh.43 and submitted that present suit is filed for permanent injunction and interim application for temporary injunction was rejected by this court. Said rejection was upheld by the Hon'ble High Court also. The plaintiff just want to prolong the matter by filing different applications. It is specifically mentioned that agreement dated 27.03.2018 is the subject matter of R.C.S No.329/2024 i.e. suit for specific performance of agreement dated 27.03.2018 (filed by the present defendants), pending before learned 3rd Joint C.J.J.D., Court, Ambad. In the present suit, there is no whisper in the plaint about the said document and therefore, same can not be sent to handwriting expert

as original document will be filed in R.C.S. No.329/2024. Hence, they prayed for rejection of application.

4. Heard both sides. Learned advocate for plaintiff argued that it is necessary to get the opinion of expert to unfold the truth behind so called execution of agreement to sale dated 27.03.2018 as alleged. The defendants have committed forgery and for which the plaintiff has also filed private complaint being R.C.C. No.391/2024 for the offence punishable under Section 318(A), 336(3), 336(4), 340(2) of BNS which is pending. In such background, he further urged that if document is not sent to the expert, plaintiff will be deprived of his right to bring material facts on record.

5. On the contrary, learned advocate for defendant has opposed the application contending that-

- (i) the original agreement is part of the record of RCS No.329/2024 i.e. specific performance suit before the learned 3rd Court;
- (ii) the said agreement cannot be withdrawn or sent for expert opinion in this proceeding; and
- (iii) in any event, the present stage of the proceedings is not appropriate, as the issue may arise, if at all, only when the original document is produced during the evidence.

6. Having heard both sides and on perusal of record, I find merit in the objection raised by the defendants. Present suit is at the stage of framing of issues. Before that the plaintiff has filed different applications i.e. for amendment, then for clubbing of the suits, etc.

Admittedly, the document in question forms the very foundation of the earlier suit i.e. R.C.S. No.329/2024 (for specific performance) and is subjudiced before the learned 3rd Court. The plaintiff, being a party therein, has ample opportunity to contest the genuineness of his signatures and to seek expert opinion in that very proceeding as

well as in criminal complaint being R.C.C. No.391/2024. More importantly, the expert cannot opine without examining the original document, which is not before this Court. To permit such an exercise at this stage would amount to judicial overreach into the domain of another competent Court seized of the same subject matter.

7. It is also pertinent to note that the present matter stands time-bound by the orders of the Hon'ble High Court, on the request of plaintiff himself. To allow such an application now, would only derail the timeline.

8. In these circumstances, I am not inclined to agree with the present application, however, in the interest of fairness, I deem it appropriate not to reject it outright. Instead, the application shall be kept in abeyance to be considered, if necessary, at the stage of defence evidence, when the original document, if produced by the defendants and will be available for reference in the present suit.

9. It is made clear that this order shall not be construed as an expression on the merits of the plaintiff's plea regarding the alleged forgery or otherwise of the document in question.

10. In view of above, application is accordingly kept in abeyance till the stage of defence evidence.

Date:- 05/11/2025.

Jt.Civil Judge, Jr. Division,
Ambad

CERTIFICATE

I affirm that the contents of this PDF file are word to word as per original order.

Name of Steno : - S. M. Sapkal
Name of Court :- Jt.Civil Judge Junior Division,
Ambad.

Sd/-
Steno