

R. C. S. NO. 13/2015.

ORDER PASS BELOW EXH. 50

Smt. Lilabai Namdeo Borse

Vs.

Dattatrya Krishnaji Waghmare

The present application is filed for sending the disputed thumb-impression on the sale-deed dtd. 25/04/1990 for verification to the hand-writing expert.

02] The applicant submits that, the present suit is filed for declaration that the sale-deed dtd. 25/04/1990 is false and bogus, void ab-initio and gives no title to the defendant and also possession of the suit property, mentioned in para no.1 of the plaint. During recording of evidence, the witnesses of defendant have admitted during cross-examination that presence of the plaintiff is doubtful at the time of alleged registration of the sale-deed. The verification of the thumb-impress of the above sale-deed is required for just and proper decision of the suit. Hence, the application.

03] The defendant has filed his say vide Exh. 51 and resisted the application. He submits that the suit is posted for final arguments. The suit is filed in the year 2015 and the plaintiff has every specific case that the sale-deed is not signed by the plaintiff. In that situation, plaintiff could have asked for verification through hand-writing expert earlier. She has failed to do so. Now, after closing of evidence of the defendants, the application is filed with an intention to delay the matter and to mislead the Court. Hence, he prayed for its rejection.

04] Heard both parties at length. Perused the entire evidence recorded and the documents filed by both the parties. The plaintiff has approached this Court with her specific pleadings that, she had no knowledge of the disputed sale-deed and she was not present at the time of registration of the said sale-deed. The witnesses of the defendant have admitted during cross-examination that, they are not sure about the presence of plaintiff at the time of registration of said sale-deed. Original sale-deed is available on record at Exh. 38. It shows that the person attesting the thumb-impression has not put his signature below the concerned thumb-impression. Therefore, it is difficult to ascertain the identify of the impressions. This is a very import aspect, which is required for just decision of the suit. The rejection of the application would cause greater injustice to the plaintiff compared to the defendant. I do find merit in the application. Hence, I pass the following order :-

ORDER

- 1) The application is allowed.
- 2) The disputed thumb-impression on the sale-deed dtd. 25/04/1990 be sent to the Chief Hand-Writing Expert, Pune along with admitted thumb-impressions, as per law.
- 3) Plaintiff shall bear the costs of this procedure.

Place : Kalwan.
Date : 01/04/2019.

(Mrs. S. S. Parakhi)
Civil Judge, Junior Division,
Kalwan.