

**R.C.S. No.269/2005**  
**Annasaheb Vs. Pratap & Ors.**  
**CNR No.MHSO170000392005**

**Order below Exh.87**

This is an application filed by plaintiff to send the sale deed No. 2767/1992 and 789/2004 to the Handwriting Expert to identify the signature or thumb impression of defendant No.3.

2. Perused application and say filed by defendants. Heard Ld advocates for both the parties.

3. It is the contention of plaintiff that the defendant No.3 has executed sale deed bearing No. 2767/1992 in his favour of plaintiff on dated 22/10/1992. Thenafter defendant No.3 executed the sale deed bearing No. 789/2004 regarding the same property in favour of defendant No.2 on dated 26/02/2004. The plaintiff has instituted present suit to correct the name of defendant No.3 in the sale deed executed in favour of plaintiff, for possession and permanent injunction. The defendant No.3 has admitted his signature or thumb impression on sale deed bearing No. 789/2004 executed in favour of defendant No.2. However, defendant No.3 denied his signature on the sale deed bearing No. 2767/1992. Hence, he prayed to send the sale deed bearing No. 2767/1992 and 789/2004 to Handwriting Expert to identify signature or thumb impression of defendant No.3.

4. The defendants have filed their say and opposed application stating that the application filed by plaintiff is not legal and tenable. The plaintiff has filed present application to collect the evidence which is not

permissible in law. The plaintiff has not filed original sale deed bearing No. 2767/1992 on record. Hence it is not possible to call report of Handwriting Expert. The plaintiff has to produce the original document. Only original document should be sent to handwriting expert. The certified copy should not be sent. Even if, document is sent to the expert, he could not give the opinion as document is certified copy. Hence it is meaningless. Hence, they prayed to reject the application.

5. Perused record. It is seen that the plaintiff has instituted present suit for the rectification of the sale deed bearing No. 2767/1992, for possession and permanent injunction. The plaintiff has not filed the original sale deed bearing No. 2767/1992 on record. It is not disputed by both the parties that plaintiff has permitted to lead secondary evidence in respect of the certified copy of sale deed bearing No. 2767/1992.

6. Section 45 of Indian Evidence Act enables court to obtain the opinion of expert on various aspect including the one relating to the comparison of disputed signature or thumb impression. An expert would be in a position to render his opinion only when the original of the document containing disputed signature or thumb impression is forwarded to him. Further there can be effective comparison and verification of the signature or thumb impression on original document if only another document containing the undisputed signature or thumb impression of contemporary period are made available to the Expert. In the matter in hand, the certified copy of sale deed bearing No.2767/1992 is produced on record. Hence it is rather incomprehensible that an expert would be able to undertake analysis of the imprint of a signature or thumb impression on a xerox copy. Hence the thumb impression on the xerox or certified document could not be

constitute the basis. Hence it would not be just and proper to send the certified copy to Handwriting Expert for its analysis. Accordingly, I pass following order.

**ORDER**

The application is rejected.

Date - 08/02/2024

( **V. C. Kshirsagar** )  
3<sup>rd</sup> Jt. C. J. J. D., Madha

**CERTIFICATE**

I affirm that the contents of this P.D.F. file Order are same word for word as per original Order.

Name of Stenographer : N. B. Kamurti

Court Name : Smt. V.C. Kshirsagar  
3<sup>rd</sup> Jt.CJJD & JMFC, Madha

Date of Order/Judgment : 08/02/2024

Order/judgment signed by  
presiding officer on : 08/02/2024

Order/judgment uploaded on : 09/02/2024