

Ct. No. 29
479
sb

**16.09
2025**

**C.O. 3887 of 2024
With
CAN 1 of 2025**

**Uma Shankar Mundra
Vs.
Macadam Leisure Pvt. Ltd.**

Mr. Manik Das
Mr. Biswajit Maity ...For the Petitioner.

Mr. Aniruddha Chatterjee, Sr. Adv.
Mr. Saniddhya Datta ...for the Opposite party

This is an application under Article 227 of the Constitution of India wherein the petitioner has challenged the order no. 36 dated 29th July, 2024 by which, the court below has rejected the petitioner's prayer for sending an agreement for sale for expert opinion.

On perusal of the plaint, it appears that the plaintiff contended that an agreement was entered into on 7.12.2019 by and between the parties at the suit property and the defendant has already received an amount as consideration price but since the defendant refused to execute the deed of sale in their favour, they have filed aforesaid suit for specific performance of contract in terms of the said agreement.

The defendant appeared in the said suit and challenged the agreement dated 7.12.2019 and they filed one application before the court below that the said agreement relied by plaintiff in support of his claim is an unregistered agreement for sale dated 7.12.2019 and relying upon the same Trial court granted ad interim order of injunction. They suspect that the document is

forged, manufactured and concocted and for which, the document needs to be sent for opinion of handwritten expert to ascertain as to whether the alleged signature appearing in the agreement , is a genuine signature or not.

Learned Trial court while disposing the said application, held that the defendant has not stated in the petition that the signature appearing in which document of the defendant, he wants to compare the signature of the defendant appearing in the agreement for sale dated 7.12.2019 for expert opinion and as such, he refused the prayer made by the defendant.

Having heard learned counsel for both the parties, it appears to me that it cannot be a ground for rejection of defendants prayer. The court below before rejecting the aforesaid application, either could have asked the defendant about the document bearing admitted signature of the defendant or could have selected document available in record bearing signature of defendant and even he could have taken specimen signature of defendant in open court.

Having considered the aforesaid facts and circumstances of the case, the order no. 36 dated 29.7.2024 passed in Title Suit no. 510 of 2020 is hereby set aside. The defendant is given liberty to mention a document bearing the admitted signature of the defendant before the court below within 15th November, 2025 and upon mentioning and/or filing such document the court

below will dispose of the defendant's application afresh on merit without being influenced by any observations made herein.

C.O. 3887 of 2024 is accordingly disposed of. Connected application being CAN 1 of 2025 is also disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)