

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION***

***WRIT PETITION NO. 10153 OF 2016***

1. Mr.Suresh Pandurang Bhokare & ors.  
All residing at A-2/238,  
Mantri Chandak Nagar, Bhavani Peth, Solapur. ... Petitioners

v/s

1. Mr.Arun Pandurang Bhokare,  
R/at: Rohan Park, Plot No.11,  
Akurdi Sub-District Centre, Pune;  
and others. ... Respondents

Mr.Milind Deshpande for the petitioners.

Mr.R.V. Katore for the respondents.

***Coram: N.M. Jamdar, J.***

***Dated: 3 October 2016***

***ORAL ORDER:***

The Petitioner challenges the order passed by the learned Civil Judge, Senior Division, Solapur, dated 18 June 2016, rejecting the application taken out by the Petitioner for stay of the suit under Section 10 of the Code of Civil Procedure. It appears that there are three suits pending between the parties bearing, Regular Civil Suit Nos.649 of 2013, Special Civil Suit No.162 of 2013 and of 2013 and Regular Civil Suit No.165 of 2013.

2     The Petitioners have relied upon a document Essara Pavti in furtherance of their case. It is informed that the document has been sent for the opinion of the handwriting expert around two years back and report is still awaited. Learned counsel for the Petitioners made a grievance that without the report being received, the suit proceedings will stand concluded. Learned counsel for the Respondents submitted that the subject matter of the suit is different.

3     Be that as it may, the learned Judge has sent the document in question for the opinion of the handwriting expert and the report is awaited for the last two years. This state of affairs cannot be continued. It cannot be said that there will be no prejudice caused to the Petitioners if the suit is disposed of without the report of the handwriting expert of the document being returned to the Court. The learned counsel for the parties agree that the appropriate cause of action would be to direct that the report of the handwriting expert be submitted to the learned Civil Judge, as already called for.

4     Accordingly, the writ petition is disposed of by directing the learned Civil Judge to issue appropriate directions/instructions to the authorities to submit the report of the handwriting expert on the Essara Pavti, within a period of two months. The learned Civil Judge will issue necessary directions within a period of two weeks from today to the concerned authority.

5 It is clarified that this direction is without prejudice to the rights and contentions of the parties as regard the evidentiary value of the document.

6 The writ petition is disposed of in above terms.

*(N. M. Jamdar, J.)*