

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
NOTICE OF MOTION NO. 200 OF 2016
IN
TESTAMENTARY SUIT NO. 2 OF 2004
IN
TESTAMENTARY PETITION NO. 633 OF 1989**

Chandrakant J. Shah	...Plaintiff
<i>Versus</i>	
Lalitchandra Jagjivandas Juthani	...Defendant

Mr. Brijesh Upadhyay, i/b Mr. Girin N. Pandit, for the Plaintiff.
Mr. Zubin Behramkamdin, with Mr. Darshan Mehta, i/b Dhruve
Liladhar & Co., for the Defendant.

CORAM: G.S. PATEL, J
DATED: 14th September 2016

PC:-

1. This is the Defendant's Notice of Motion for leading evidence of an handwriting expert. Of course, the prayer is over ambitious because it asks that I should appoint or authorize one Mr. Milind J. Rajore, handwriting expert. I decline to do anything of the kind. The Defendant is at liberty to engage Mr. Rajore's services. He and his Advocates will be entitled to take an appointment with the Testamentary Department for inspection of the original Will

after due notice to Mr. Pandit who has entered appearance for the Plaintiff.

2. Mr. Rajore will be entitled himself or through his authorized representative or assistant to take photographs and a photocopy of the Will. The original Will is not to be take out of the premises of the High Court under any circumstances.

3. Mr. Upadhyay submits that no question arises of handwriting expert since there are eye witnesses to the execution of the Will. I am unable to accept his submission. The testimony of these witnesses and the veracity of signatures are both in dispute.

4. He also submits that the handwriting expert should not be allowed to draw a comparison of the signatures made on the rival Will that the Defendant is propounding. Again, this is not a submission that I can accept simply because the previous Will cannot be proved on the basis of this handwriting expert's opinion. That is not proof of the Will in its solemn form. The dispute is not about the correctness or otherwise of the signatures on the previous testamentary writing or writings but the genuineness of the signatures on the present Will. In any case, all that can possible be being presented is an expert opinion, with all the limitations that this implies.

5. It goes without saying that Mr. Upadhyay will be at liberty to lead the evidence of his own handwriting expert, if he thinks necessary, in rebuttal after evidence of the Defendant is closed and

after the cross-examination of the Defendant's handwriting expert is over.

6. The Notice of Motion is disposed in these terms with no order as to costs.

(G. S. PATEL, J.)