

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13177 OF 2017

Tanaji Dattu Waghmore	 Petitioner
V/s.	
Pushpa Sharad Ingale (Patil) & Ors.	 Respondents

Mr. Sandeep S. Koregave for the Petitioner.

None for the Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 30TH JANUARY 2018.

P.C. :

1. Heard Mr. Koregave, learned counsel for the Petitioner.
2. By this Writ Petition, filed under Article 227 of Constitution of India, the Petitioner is challenging the order dated 9th October 2017 passed by the Joint Civil Judge, Junior Division, Peth Vadgaon, thereby allowing the application at "Exhibit-68", filed by Respondent Nos.1 to 3 for the D.N.A. Test.
3. The main grievance of the learned counsel for the Petitioner is that, if the D.N.A. Test was ordered on the request of Respondent Nos.1 to 3 and, that too, after about 8 years from the date of filing of the Suit, the Trial Court should not have, at-least, imposed the cost of the D.N.A. testing on the Petitioner. However, in this respect, the Trial Court has

given a finding in paragraph No.7 of its order by stating that, the Respondent No.1-Plaintiff is working as a 'house-maid' and does menial job and she is unable to maintain herself from her meager earnings. As against it, admittedly, Defendant No.1, the Petitioner herein, has four immovable properties and, therefore, considering this fact, it was held that, the Petitioner will have to bear the cost of the D.N.A. testing. At the same time, the Trial Court has also taken an undertaking from Respondent No.1-Plaintiff to pay the Defendant No.1-Petitioner the cost of D.N.A. testing, in case the Report states that Plaintiff and Defendant No.2 are not the daughters of Defendant No.1.

4. Thus, the Trial Court has protected the interest of the present Petitioner also. There is clear order to that effect. In view thereof, absolutely no interference is warranted in the impugned order passed by the Trial Court.

5. The Writ Petition, therefore, being without merits, stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]