

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

WRIT PETITION NO.9527 OF 2019

Rajshekhar Basavraj Minajagi ... Petitioner
Vs.
Vishruti Basavraj Navadgi & Anr. ... Respondents

.....
Mr. Suhas S. Inamdar for the Petitioner.

.....
CORAM : M. S. KARNIK, J.
DATE : 4th SEPTEMBER, 2019.

P. C.:

1. Heard learned counsel for the petitioner.
2. The petitioner is the original defendant No.1. The plaintiff-respondent No.1 filed Civil Miscellaneous Application No.286 of 2017 under the provisions of Section 278 of the Indian Succession Act for receiving Letters of Administration. The defendant No.1 filed a written statement. One of the ground taken in the written statement is that the will itself is false and fabricated document. Various other contentions that the will is a suspicious document etc. are raised. It is also one of the contention that at the time of executing of the will Late Basavraj suffered from paralysis.

3. The defendant No.1 filed an application below Exhibit 32 for sending the signature of Late Basavraj to the handwriting expert to find out whether the signature on the will is of Late Basavraj or not. The said application was opposed by the applicants by filing their say. The Trial Court by the impugned order rejected the application.

4. Learned counsel for the petitioner would submit that in the facts of the present case for finding of truth it was necessary for the Trial Court to have allowed the application and sent signature of Late Basavraj to the handwriting expert for calling his report. According to learned counsel the signature of his father on the will is false and the said document is fabricated. It is his further contention that the signature on the sale deed is altogether different to that of the signature on the will deed. It is in this light of the matter that with a view to compare the signatures, learned counsel for the petitioner submits that the signatures should be sent to the handwriting expert. In support of his submission he relied upon the following decisions :-

- (1) **State Vs. Pali Ram** reported in **1978 DGLS (SC) 267.**
- (2) **O. Bharathan Vs. K. Sudhakaran** reported in **1996 DGLS (SC) 271.**
- (3) **Rama Avatar Soni Vs. Mahanta Laxmidhar Das and Others** reported in **2018 DGLS (SC) 1081.**

5. I have heard learned counsel. I have gone through the order passed by the Trial Court. The defendant No.1 has already contended that the will in question is a false and fabricated document. The said question will obviously be decided on its own merits. By the application made, the defendant No.1 wants to compare the signatures on the will deed and the sale deed. Basavraj is already dead. He is the late father of defendant No.1.

6. In this view of the matter, the Trial Court was of the opinion that as now the only question is of comparing the signature on the will deed and the one on the sale deed which exercise can be done by the Court also, no purpose will be served if both documents are sent to the handwriting expert for comparison. I do not find the view of the Trial Court suffers from any infirmity.

7. The Trial Court will obviously undertake the exercise of comparing the signatures on these documents and arrive at his own conclusions. At a later stage if the Trial Court is of the opinion that the expert aid is necessary, the Trial Court can always pass suitable orders. The decision relied upon by the learned counsel for the petitioner are of no assistance in the facts of the present case as the only question in the present case is comparing signature on the sale deed and will deed.

8. With these observations, the petition stands rejected.

(M. S. KARNIK, J.)