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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13614 OF 2022

Ujjwal Alex Faras

.. Petitioner

Versus

Shri. Devram Hari Patil (Deceased)

Smt. Meena Raghunath Patil

Since deceased through her legal representatives

Shri. Raghunath Damodar Patil and Ors.

.. Respondents

.....

Mr. Rajesh S. Datar i/by Mr. Akshay J. Kandarkar, Advocate for the
Petitioner.

None for Respondents.

.....

CORAM : MILIND N. JADHAV, J.

DATE : 23rd November, 2022.

P.C.:

. Heard Mr. Datar, learned Advocate appearing for the
Petitioner.

2. Perused the order below Exh.220 in Special C.S. No.151 of
2011. The Application filed by Defendant No.5 seeking appointment
of handwriting expert and directions to the handwriting expert has
been rejected according to the Petitioner. Perused the Application
(Exh. 'J' at page No.150 of the Petition). Admittedly, the Application
is not happily worded and drafted in a proper format. The reliefs
which are claimed in the Application are part of pleadings in
paragraph Nos.6, 7 and 8 of Application.

3. In that view of the matter, learned Trial Court has correctly come to the conclusion that Defendant No.5 has not resorted to the specific provisions of making the Application for appointment of handwriting expert and thereafter sought directions to the handwriting expert to give his opinion under Section 46 of the Indian Evidence Act, 1872 in respect of the controverted signatures / documents.
4. Mr. Datar fairly submitted that Defendant No.5 shall take out an appropriate Application in accordance with law for seeking reliefs for appointment of handwriting expert and seek further directions as required.
5. In that view of the matter, the impugned order dated 12.10.2022 stands quashed and set aside.
6. Defendant No.5 is at liberty to file a fresh but appropriate Application for the above relief in accordance with law. If such Application is filed, the same shall be dealt with and disposed of by the learned Trial Court within a period of four weeks from the date of its filing.
7. The Application shall be decided on its own merits without being influenced by any observation made in the present order.
8. With the above directions, Writ Petition stands disposed of.

[MILIND N. JADHAV, J.]