

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8771 OF 2023

Hiralal Baburao Gaikwad
Since deceased through legal
heirs & others.

...Petitioners.

Versus

Ram Parshuram Jadav.

..Respondent.

Mr. Ajit V. Alange for the petitioner.

Coram : Sharmila U. Deshmukh, J.

Date : July 21, 2023.

P. C. :

1. By this petition the challenge is to the order dated 12th June 2023 passed below exhibit 187 in RCS no. 170 of 2012 by which the application filed by the respondent-plaintiff came to be allowed and the signatures / thumb impressions of defendant nos. 3, 5 and 7 were directed to be sent to the handwriting expert.

2. Heard learned counsel appearing for the petitioner.

3. The petitioners are the original defendant nos. 1B and 2B. The petitioners have challenged the impugned order on the ground that

the plaintiff is not seeking comparison of the thumb impressions of his mother and has sought the thumb impression of defendant nos.3, 5 and 7 to be sent to the handwriting expert when they had not appeared before the trial court and are not disputing the thumb impression or signatures. He would urge that although it is the thumb impression of defendant nos.3, 5 and 7 which are to be sent for inspection to the handwriting expert, the same is against the provision of law in as much as there is no dispute about these signatures and there is no necessity for sending the same to the handwriting expert.

4. Considered the submissions.

5. The fact remains that the thumb impressions and signatures of defendant nos.3, 5 and 7 were directed to be sent for inspection by the handwriting expert, and the present petitioners, who are defendant nos. 1B and 2B have not shown any cause as to why the impugned order affects the rights of these defendants, apart from saying that the suit has been filed to harass the present petitioners.

6. Considering that the supervisory jurisdiction of this court under Article 227 of the Constitution of India has been invoked against an

interlocutory order, this court is not inclined to entertain the writ petition inasmuch as it is the thumb impressions of defendant nos.3, 5 and 7 which is sought to be sent for examination.

7. That apart, considering the provisions of section 105 of the Code of Civil Procedure, 1908 in event of an appeal from decree any error, defect or irregularity in any order affecting the decision of the case may be set forth as a ground of objection in the memorandum of appeal, I am not inclined to entertain the present petition. As a result, the writ petition fails and is hereby dismissed.

[Sharmila U. Deshmukh, J.]