



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition (WP) No. 322 of 2024

Smt. Vasundhara Wd/o Domaji Pantawne and another

Versus

Rajesh S/o Bhaiyyalal Deshmukh and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri D.C.Chahande, Advocate for the petitioners.

CORAM : ANIL S. KILOR, J.

DATED : 16th JANUARY, 2024.

Heard.

2. The Order Below Exhibit 57 dated 20th February, 2023 passed by the learned 8th Joint Civil Judge, Senior Division, Nagpur in Regular Civil Suit No. 900 of 2017, rejecting the application for appointment of Commissioner/handwriting expert, is under challenge in this writ petition.

3. The learned trial Court while rejecting the application has categorically observed that, the petitioners were kept mum for near about five years and did not raise any challenge to the Gift Deed dated 20th May, 2017 and now filed the separate Civil Suit, thereby

raising a challenge to the Gift Deed dated 20th May, 2017. The learned trial Court has held that if the application is allowed, then it will amount to allow to withdraw the admission given by the defendants.

4. The learned counsel for the petitioners submits that the written statement which was filed in the present matter was not of the defendant nos. 1 and 2.

5. However, the fact remains that till date no challenge is raised to the validity of Gift Deed dated 20th May, 2017 in Regular Civil Suit No. 900 of 2017 by way of written statement. In that view of the matter, the petitioners cannot ask for appointment of Court Commissioner or handwriting expert to find out genuineness of the Gift Deed dated 20th May, 2017, in the Regular Civil Suit No. 900 of 2017.

6. Hence, I am of the opinion that the learned trial Court has not committed any error in rejecting the application. Accordingly, the writ petition is disposed of.

[ANIL S. KILOR, J.]