



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1283 OF 2024

Smt.Kaushalyadevi w/o Gaurishankar Lohia and another

-Vs.-

Ashokumar Balchandji Lohiya and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.R.L.Khapre, senior counsel a/b Mr.P.A.Deshpande, counsel for the
petitioners.

Mrs.R.Sirpurkar, counsel a/b Mr. Chetan A. Lohia, counsel for the
respondents.

CORAM : B. P. DESHPANDE, J.

DATE : 4TH MARCH, 2024

P.C.

Heard Mr. Khapre, learned senior counsel along with Mr.Deshpande, counsel for the petitioners and Mrs.Shirpurkar, learned counsel along with Mr.Lohia, learned counsel for the respondents.

2. After hearing Mr.Khapre, learned senior counsel for some time and since it was pointed out that this Court is not inclined to consider the matter with regard to the impugned order, he would submit that the petitioners are ready to withdraw the present petition. He would further submit that the examination as proposed by the Trial Court and as mentioned in the application filed by the plaintiffs and more so the prayer clause 'B' at page-173 of the paper book be conducted by the concerned Authority within a period of two months from the date of receipt of such document from

the Trial Court.

3. Mr.Khapre, learned senior counsel would submit that the petitioners will deposit the original Will dated 30/10/1992 with the Trial Court within a period of fifteen days from the date of this order. He would submit that the right to cross-examine the plaintiff *qua* the document be kept open.

4. Mrs.Sirpurkar, learned counsel for the respondents, submits that only prayer, which is relevant for examination of document is prayer clause 'B', since the petitioners are now ready and willing to deposit the document in the Court.

5. Considering the dispute and the order was passed by the Trial Court only for the purpose of referring the original document to General Manager, Indian Security Press, Nashik Road, Nashik for examination and report, as prayed in prayer clause-B which reads thus:

“(B) The original copy of alleged Will dated 30.10.1992 of Smt.Gyarsidevi may kindly be sent to the General Manager, Indian Security Press, Nasik Road, Nasik, Pin code No.422 101 and report in respect of :-

i) Date or month and year of printing of the stamp paper on which the alleged Will of Smt.Gyarsidevi dated 30.10.92 is prepared, may kindly be called in the interest of justice; and

ii) Date or month and year of circulation for sale of the stamp paper on which the alleged Will of Smt.Gyarsidevi dated 30.10.92 is prepared may kindly be called in the interest of justice.

iii) Genuine-ness of the stamp paper on which alleged Will of Smt.Gyarsidevi dated 30.10.92 is prepared, may kindly be called in the interest of justice.”

The petitioners/defendants to deposit the original Will dated 30/10/1992 with the Trial Court within a period of fifteen days from today. The learned Trial Court shall forward the

original Will in a sealed envelop, duly insured to 'General Manager, Indian Security Press, Nashik Road, Nashik' with a request to carry out such examination as directed by the Trial Court and return the original document along with the report within a period of two months from the date of receipt of such document.

5. It is made clear that in the meantime, the evidence of the plaintiffs shall continue. If the petitioners/defendants are desirous of cross-examining the plaintiff on the said Will dated 30/10/1992, the learned Trial Court shall allow such cross-examination on the basis of the copy of such Will available on record.

6. It is also clarified that after the receipt of the original document along with the report, if the petitioners/defendants make a request for further cross-examination of the plaintiffs only on such document, the same could be permitted by the Trial Court.

7. Needless to mention that such orders could be passed only after hearing both the parties.

7. The costs of sending the document to Nashik and the fees of the expert shall be borne by the plaintiffs. The plaintiffs shall deposit such amount with the Trial Court preferably before sending the document.

8. In view of the above observations, the petition stands disposed of as withdrawn.

JUDGE