

VRJ

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

WRIT PETITION NO.6637 OF 2023

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Narsinha Chandrakant Salunkhe & Ors. ... Petitioners

V/s.

Rajabai Subhash Parade & Ors. ... Respondents

Mr. Sarthak Diwan i/by Ms. Akanksha Helaskar for the petitioners.

Mr. Anilkumar K. Patil for respondent Nos.2 to 4.

Ms. Snehal S. Jadhav, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 20, 2025

P.C.:

1. The defendants in a suit for partition challenge the order passed by the Trial Court, wherein the defendants sought deferment of the hearing until the receipt of the handwriting expert's report. According to the defendants, Plaintiff No.1 filed an application stating that she no longer intends to prosecute the suit. This assertion was contested by the defendants, leading to the application being referred to a handwriting expert to verify the authenticity of the signature on the said application. Notably, the defendants had earlier filed an application seeking the appointment of a handwriting expert, which remains pending before the Trial Court. The Trial Court, however, allowed the

plaintiff's application to send the signature to a handwriting expert.

2. In the meantime, the remaining three plaintiffs filed an application seeking the transposition of Plaintiff No.1 as a defendant under Order I Rule 10(2) of the CPC. The Trial Court allowed the application for transposition, observing that Plaintiff No.1's intention to withdraw from the suit had the potential to prejudice the rights of the other plaintiffs. With the transposition, Plaintiff No.1 ceased to remain a plaintiff in the suit, and the primary contention of the defendants regarding the deferment of the hearing became moot. Consequently, the Trial Court rightly rejected the application for deferment, as the pending issues could be adjudicated without awaiting the handwriting expert's report.

3. Given the foregoing discussion, no interference with the Trial Court's order is warranted. The writ petition stands dismissed, with no order as to costs.

(AMIT BORKAR, J.)