



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7498 OF 2025**

Rita Pankaj Raval and Ors. ... Petitioners
versus
Suhasini @ Shaluja Bhatia and Ors. ... Respondents

Mr. K.H.Holambe Patil with Mr. Vishal G. Shirsat, Mr. Nitin S. Murkute i/by
K.K.Holambe Patil, for Petitioners.

CORAM: N.J.JAMADAR, J.

DATE : 18 JUNE 2025

P.C.

1. Heard the learned Counsel for the Petitioners.
2. The challenge in this Petition is to an order dated 7 March 2025 passed by the Appellate Bench of the Court of Small Causes, Mumbai, rejecting Revision Application No.287 of 2013 preferred by the Petitioners against an order dated 30 September 2013 of the Trial Court below Application (Exh.89) for sending the Power of Attorney (Exh.60) to the hand writing expert in T.E.&R Suit No.110/126/2006.
3. Learned Counsel for the Petitioners submitted that the Trial Court had ruled that the said application for sending the Power of Attorney to the hand writing expert would be decided finally along with the suit. However, the Trial Court had not decided the said issue and, therefore, simultaneously with the Appeal assailing the judgment and decree passed in T.E.&R Suit No.110/126/2016, the Petitioners had preferred Revision against the said

order of the Trial Court.

4. The Appellate Bench was of the view that since the Petitioners have already preferred an Appeal assailing the legality and correctness of the judgment and decree passed in T.E.&R No.11/126/2016, the Revision Application was not maintainable.

5. Learned Counsel for the Petitioners submitted that the revisional Court was in error in dismissing the Revision Application as not maintainable as the Petitioners had no opportunity to prefer an appeal against the order passed by the Trial Court on the Application (Exh.89).

6. The submission does not merit countenance for reasons more than one. First, under Section 105 of the Code of Civil Procedure, 1908, where a decree is appealed from, 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. Secondly, the revision is maintainable only when no appeal lies. Since the Petitioners have already preferred a substantive appeal, the Petitioners can agitate the legality, propriety and correctness of the order passed by the Trial Court on the Application (Exh.89) as well as the admission of the said document in evidence allegedly without the same having been lawfully proved in evidence. Therefore, no interference is warranted in exercise of writ jurisdiction.

7. The Writ Petition stands dismissed.

8. However, the Petitioners are at liberty to file an appropriate application seeking permission to amend the appeal memo so as to take additional grounds.

(N.J.JAMADAR, J.)