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IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3612 OF 2015

L.G.Electronics India Pvt.Ltd

.. Petitioner

Vs.

Rajkamal Lakhichand Jewellers and others .. Respondents

Mr.Yeshodhan Divekar i/b P.S.Legal, Advocate for the Petitioner.

Mr.Pradeep D.Dalvi, Advocate for Respondent No.1.

Mr.Hitesh P.Vyas, Advocate for Respondents No.2 & 3.

CORAM : R. G. KETKAR, J.

DATE : 21st JULY, 2015

P.C. :

. Not on board. At the request of Mr.Yeshodhan Divekar, taken up in the Production Board.

2. Heard Mr.Yeshodhan Divekar, learned Counsel for petitioner, Mr.Pradeep D.Dalvi, learned Counsel for respondent No.1 and Mr.Hitesh P.Vyas, learned Counsel for respondents No.2 & 3 at length.

3. By this Petition under Article 227 of the Constitution of India, original defendant No.1 has challenged the judgment and order dated 24/12/2013 passed by the learned 2nd Joint Civil Judge, Senior Division, Kolhapur below Exhibit 42 in Special Civil Suit No. 305 of 2006 as also judgment and order dated 17/01/2015 passed by the learned 2nd Joint Civil Judge, Senior Division, Kolhapur in Special Civil Suit No. 305 of 2006. By order dated 24/12/2013, the learned trial Judge allowed the application at Exhibit 42 and

directed respondent No.1, hereinafter referred to as plaintiff to lead secondary evidence pertaining to the documents at serial Nos. 1 to 3, 15 and 18 to 41 of list Exhibit 3. It was also clarified that the documents at serial Nos. 1 to 13, 15 and 18 to 41 of list Exhibit 3 are not admitted in evidence as the secondary evidence of the original documents unless and until the plaintiff proves their admissibility as the secondary evidence of the original documents. Mr.Divekar states that he is not pressing challenge to order dated 24/12/2013.

4. Mr.Dalvi submits that by order dated 17/01/2013, the learned trial Judge marked document as Exhibit 61 keeping the objection open at the time of final hearing. He submitted that the said order may be set aside and the learned trial Judge may be directed to decide the objection before exhibiting the document.

5. In view thereof, by consent of the parties, Petition is disposed of in the following terms.

- 1) The statement made on behalf of defendant No.1 that he is not pressing challenge to the order dated 24/12/2013 is accepted.
- 2) The order dated 17/01/2015 is set aside and the learned trial Judge shall decide objection before marking the document.

6. Petition is disposed of in the aforesaid terms. Order accordingly.

(R. G. KETKAR, J.)