

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO.3215 OF 2014**

**Adamji Yahyabhai Jasdanwalla & Anr.**

**..Petitioners**

**Vs.**

**Vilas Madanlal Kothari & Ors.**

**..Respondents**

**Mr. Rohan Cama i/b M/s. Keystone Partners for the Petitioners**

**Mr. Miheer Jayakar for the Respondent No.1**

**Mr. Prakash Pandit and Ms Prachi Pandit i/b Mr. Ratnesh Dube for the Respondent No.2**

**Mr. Sarthak Diwan i/b Mr. A. M. Kulkarni for the Respondent Nos.7 to 10**

**CORAM : R. M. SAVANT, J.**

**DATE : 9<sup>th</sup> JANUARY, 2015**

**P.C.**

1           The Writ Jurisdiction of this Court is invoked against the order dated 15-10-2013, passed by the Learned Joint Civil Judge Senior Division, Panvel, by which order, the application Exhibit 70 for de-exhibiting the documents filed at Exhibit 57 and Exhibit 58 was rejected. The Petitioners are also challenging the order dated 7-2-2014 by which order, the application Exhibit 91 for review of the order dated 15-10-2013 was rejected by the Trial Court i.e. the Learned Joint Civil Judge Senior Division, Panvel.

2           The Learned Counsel for the Petitioner Mr. Rohan Cama states that the challenge in the above Petition is restricted to the exhibition of the document i.e. the certified copy of the Memorandum of Understanding which was produced by the Plaintiff / Respondent No.1 herein and which is marked

as Exhibit 58. In so far as the application Exhibit 70 which was filed for de-exhibiting the documents is concerned, the observation made in the subsequent order dated 7-2-2014 by the Trial Court is relevant. The said observation is to the following effect: "Whether documents are proved or not will be seen at the time of appreciating evidence." Hence the Trial Court has kept the issue of whether the documents are proved or not to be considered at the time of appreciating the evidence.

3           The Learned Counsel appearing on behalf of the Respondent No.1 / Plaintiff who has produced the said document has no objection if even the admissibility of the said document Exhibit 58 is considered at the time of appreciating the evidence. Hence the only clarification that is required to be issued in view of the statement made by the learned Counsel for the Respondent No.1 that apart from proof of the said document, the admissibility would also be considered at the time of appreciating the evidence and it would therefore not be open for the Respondent No.1 / Plaintiff who had produced the said document to contend that the said document is admissible and stands proved only because the said document is marked as an Exhibit. Hence though the orders impugned are not interfered with, however, with the aforesaid clarification, the above Writ Petition is disposed of.

**[R.M.SAVANT, J]**