

Mr. Anushak Davar a/w. A. Cardozo i/b. Little & Co. for Petitioner.
Mr. Karl Tamboli a/w. Ms Nandini Joshi i/b. Harish Joshi & Co. for Respondent.

P.C. :

Heard Mr. Davar, learned Counsel for petitioner and Mr. Tamboli, learned Counsel for respondent.

2. As the order challenged in this Application is about marking of the exhibits, Mr. Davar orally applies for leave to convert this C.R.A. into Writ Petition. Leave as prayed for is granted. Amendment shall be carried out within 1 week from today.

3. By this Petition under Article 227 of the Constitution of India, original defendant has challenged the order dated 12.06.2015 by which the learned trial Judge gave permission to the respondent-plaintiff to lead secondary evidence since the original documents were lost and marked documents at serial No. 1 to 13 as exhibits.

4. The only submission made by Mr. Davar is that the impugned order gives impression that the documents at Sr. No.1 to 13 having been exhibited, contents thereof are proved. He submitted that it may be clarified that even if the documents at Sr. No.1 to 13 are marked

exhibits, plaintiffs will have to prove the contents thereof.

5. Having regard to the fact that the learned trial Judge has merely marked documents at Sr. No.1 to 13 as exhibits, it is clarified that plaintiffs will have to prove the contents thereof. Subject to this clarification, no case is made out for invocation of powers under Article 227 of the Constitution of India. Petition fails and the same is dismissed.

(R. G. KETKAR, J.)

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