

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

WRIT PETITION (STAMP) NO.23523 OF 2015

Shri. Manubhai Ramshankar Rawal

.. Petitioner

Versus

Shri. Santosh Dalichand Jain and another

.. Respondents

Mr. Ganesh Bhujbal, for the Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 28th OCTOBER, 2015

PC.

1. The order dated 01.04.2015 passed by the Learned 10th Joint Civil Judge Junior Division, Pune, rejecting the application for leading secondary evidence in respect of the documents which according to the Petitioner are part of the record of Criminal Case No.0404816 of 2009 is taken exception to by way of the above Petition. It appears that prior to the instant application, the Plaintiff had filed application Exh.28 to call for the record from the Criminal Court. The said application was rejected on the ground that Plaintiff can file certified copies of the documents. It seems that the Plaintiff has not been furnished copies on the ground that the said documents are as yet not exhibited in the Criminal Case, the Trial Court therefore has by the impugned order permitted the Plaintiff to bring the record of the said Criminal Case. The Trial Court had further observed

that permission to lead secondary evidence could not be granted at the said stage and that the xerox copies filed along with instant application cannot be exhibited for the above mentioned reason. Since the Trial Court is of the view that at the present the Plaintiff cannot be allowed to lead secondary evidence for the reasons mentioned in the impugned order, it would be open for the Petitioner/original Plaintiff to renew his application for leading secondary evidence in the event he is furnished with the certified copies of the documents in respect of which he wants to lead secondary evidence or a stage is arrived in the suit wherein in spite of the application for certified copies being filed the concerned Court is not in a position to provide certified copies to the Plaintiff. If any such application is filed, needless to state that the Trial Court would consider the same appropriately without being influenced by the fact that by the impugned order the earlier application was rejected. With the aforesaid observations, the Writ Petition is disposed of.

[R.M. SAVANT, J]