

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

WRIT PETITION (STAMP) NO.26856 OF 2015

Nitinkumar Hakchand alias Nitin

.. Petitioner

Versus

Gerald Paul D'Mello

.. Respondent

Mr. Gautam A. Tambe, for the Petitioner.

Ms. Eventa A. Gonsalves, for the Respondent.

CORAM : R.M. SAVANT, J.

DATE : 9th DECEMBER, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 14.09.2015 passed by the Appellate Bench of the Small Causes Court, Mumbai, by which order the Revision Application filed by the Petitioner came to be dismissed and resultantly the order dated 25.06.2015 passed by the Learned Judge of the Small Causes Court permitting the Plaintiff to adduce the evidence of her Power of Attorney came to be confirmed. The Appellate Bench has observed that if the Power of Attorney has personal knowledge of the transaction he can depose on behalf of the principal. The Appellate Bench has further observed that the Defendant has an opportunity to cross-examine the said witness and also argue about the evidentiary value of the said evidence. The Appellate

Bench lastly observed that the evidence of the said Power of Attorney cannot be discarded at the initial stage. In my view, having regard to the said observations made by the Appellate Bench of the Small Causes Court, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]