

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL SIDE JURISDICTION

NOTICE OF MOTION NO.293 OF 2015
IN
SUIT NO.1683 OF 1984

Nirupama Kishor Tejura & Ors.	...	Applicants / Plaintiffs
Vs.		
Lilia Elizabeth Vaz & Ors.	...	Defendants

Mr. Karl Shroff, Adv. a/w. Nimay Dave, Adv. a/w. Ms. Neha Bhatt,
Adv. i/b. Bilawala & Co. for plaintiffs.

Ms. Shweta Doshi, Adv. i/b. M/s. Jhangiani Narula & Asso. for
defendant Nos.2(b) to 2(g) & 3.

Farhan Dubhash, Adv. a/w Kalpesh Mehta, Adv. a/w. Vasim Shaikh,
Adv. a/w. Shailesh Amin, Adv. i/b. F Mehta & Mithi & Co. for
defendant Nos.6 to 8.

CORAM : MRS. ROSHAN DALVI, J.
DATE : 25th June, 2015.

P.C. :

1. The plaintiff has produced the affidavit of another witness one Simon Varghese to admit on record a CD made by the said witness of the proceeding which were video recorded by that witness.

2. The affidavit of examination in chief of that witness is filed. It is accepted on record under the provisions of Order 18 Rule 4 of the CPC. The admissibility of the CD is required to be considered upon the oral evidence of the witness producing the CD in terms of Section 65B of the Evidence Act. The witness has deposed about the data recorded by him on Cannon Digital Camera on 9th December, 2014 and contained in the CD as true and correct. The witness has deposed about the transfer of the data directly to the CD. Such a transfer

would be through the computer. The witness has deposed about the custody of the computer, the memory card and the CD as also certified that the video recorded by him is correctly reflected in the CD has not be altered or tampered with. Upon such evidence, the CD containing the video recording of the survey of the suit property becomes admissible in evidence. It is, therefore, marked **Exh.S**.

3. It is clarified that upon the admissibility of the CD the contents of the CD which are deposed to be true and correct are proved by the witness subject to his cross examination. The appreciation of evidence of what is contained in the CD shall be made at appropriate time.

4. The witness shall be cross examined by the same commissioner upon the directions earlier passed.

5. After the cross examination of the aforesaid witness of the plaintiff the parties shall place the suit on board.

6. Notice of Motion is disposed of accordingly.

(ROSHAN DALVI, J.)