

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6317 OF 2015**

Sangita Yogesh Kamdar

..Petitioner

Vs.

Dhanalaxmi Mohanlal Merchant & Ors.

..Respondents

Mr. M. J. Jamdar for the Petitioner

Ms Ranjana Parikh for the Respondent No.1

CORAM : R. M. SAVANT, J.

DATE : 25th FEBRUARY, 2016

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 23-3-2015 passed by the Learned Judge of the Small Causes Court, deciding upon the admissibility of the documents. The objections regarding the following documents were taken by the Petitioner / Defendant No.1, namely the Indenture of Gift Deed, Memorandum of Understanding as also the Passport. Two of the said documents have been marked as Exhibits pursuant to the evidence of the P.W.-2 who is the daughter of the P.W.-1 who is the original Plaintiff.

2 In so far as the document i.e. Indenture of Gift Deed is concerned, the P.W.-2 is a witness to the said document and therefore the Trial Court has deemed it appropriate to mark the said document as Exhibit 49.

In so far as the Memorandum of Understanding is concerned, the Trial Court has held that since the PW-2 was not a signatory to the said document, the said document cannot be marked as an Exhibit merely because a copy of the said document was given to the Defendant No.1.

In so far as the passport is concerned, the Trial Court has deemed it appropriate to mark the said document as Exhibit as the original was produced which was compared with the copy which is sought to be placed on record by the Plaintiff.

3 In my view, the order passed by the Trial Court in respect of the said three documents cannot be found fault with. Needless to state that the evidentiary value of the documents which have been marked as exhibits would be undoubtedly considered by the Trial Court at the appropriate stage. Needless to also state that the said document marked as Article "X" has been marked subject to proof. The Plaintiff would therefore have to prove the said document in accordance with law.

4 With the aforesaid observations, the Writ Petition is disposed of.

[R.M.SAVANT, J]