

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

WRIT PETITION NO. 7136 OF 2016

Mrs. Rashmi Sanjay Atre (since deceased, through Lrs: ..Petitioners.
1a. Mr Sanjay Vithal Atre and Anr.

Vs

1. Jankibai Bhikam Kulkarni .. Respondents
(since deceased) through Lrs:
1a. Bhikanrao Laxman Kulkarni and Ors.

Mr. C.N.Chavan, Advocate for Petitioners.

**CORAM : R.G.KETKAR,J.
DATE : 01/07/2016**

PC:

1. Heard Mr. C.N.Chavan, learned counsel for the petitioner at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the order dated 5.2.2016 passed by the learned Judge presiding over Court Room no.6 of the Small Causes Court at Mumbai as regards admissibility of documents filed by the plaintiffs along with List Exhibits 15 and 44 in R.A.E.Suit No. 2170 of 2004. By the impugned order, the learned trial Judge has marked documents as exhibits.
3. This Petition can be conveniently disposed of by directing

trial Court that though the documents are marked as exhibits, the plaintiffs will have to prove the contents thereof in accordance with law. Subject to this, no case is made out for invocation of powers under Article 227 of the Constitution of India. Petition fails and the same is dismissed.

4. It is, however, expressly made clear that where a decree is appealed from by the petitioner, any error, defect or irregularity in the impugned order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal as contemplated by Section 105(1) of C.P.C.

(R.G.KETKAR, J.)