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

WRIT PETITION NO. 7787 OF 2015

Mr. Ashok Laxman Bhosale & Ors. ... Petitioners.

V/s.

Mr. Rajendra Shivaji Bhosale & Ors. ... Respondents.

Mr. P.G. Chavan for the Petitioners.

Mr. Vivek Salunke for Respondents 1 to 3.

Mr. Nitin Deshpande for Respondent 4.

CORAM : N.M. Jamdar, J.

20 September, 2016.

Oral Order :-

The Petitioners challenge the order dated 2 April 2015 allowing the application taken out by the Respondents in respect of leading secondary evidence.

2. Heard learned Counsel for the parties.

3. The learned Counsel for the Petitioners submitted that a procedure under Section 66 of the Indian Evidence Act was not

followed. This submission has been considered by the learned Civil Judge. The learned Civil Judge has held that during the cross examination, questions were put to the witness of the Petitioners in which the Respondents had showed their intention that they would rely on the said document. This has been considered as sufficient enough compliance with the procedure established. There is no perversity in this approach. Furthermore, even though in the operative portion the learned Civil Judge has ordered that the Respondents – Defendant Nos.1 and 3 are allowed to lead secondary evidence in paragraph 9 of the order, the learned Judge has observed that mere production of a photocopy will not be sufficient for reading the same in evidence and the request of the Respondents to admit exhibit and read the same in evidence at that stage itself has not been accepted. The learned Civil Judge has made it clear that the Respondents will have to prove the documents. At that stage, it is open to the Petitioners to advance all such arguments which are available in law and the Writ Petition therefore need not be entertained and is disposed of.

(N.M. Jamdar, J.)