

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

WRIT PETITION (ST) NO. 23072 OF 2016

Control Print Ltd.

... Petitioner

v/s

Mrs.Hasseen R. Merchant

... Respondent

Mr.P.S.Dani, senior advocate along with D.V.Deokar and Ms.Jaylaxmi Gaud i/by M/s.Parimal K. Shroff & Co. for the petitioner.

Mr.A.M.Rajabally for the respondent.

Coram: N.M. Jamdar, J.

Dated: 29 August 2016

ORAL ORDER:

Heard learned counsel for the parties. Taken up for final disposal in view of the nature of the impugned order passed.

2 By the impugned order, the learned City Civil Court Judge has not marked certain documents in evidence and has held that they could not be so marked in view of the provisions of the Evidence Act. I am of the opinion that this is not a correct approach to be adopted. The documents could have been marked and their admissibility and evidentiary value could left to be decided at the time of trial. Learned counsel for the Respondent submitted that the learned City civil

Court Judge has not foreclosed the rights of the Petitioner and it is only a methodology adopted by the learned City Civil Court Judge. However, since now an order is passed which clearly states that the documents will not be accepted as they are not proved, it is necessary to clarify the position.

4 Accordingly, the writ petition is disposed of by directing that the documents in question, which the Petitioner wants to rely upon, will be marked in evidence and their admissibility and evidentiary value is kept open to be considered at the time of trial of the suit. All contentions of the parties in this regard as regard these documents are kept open.

5 The writ petition is disposed of in the above terms.

(N. M. Jamdar, J.)