

Sequeira

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

WRIT PETITION NO.10953 OF 2014

Ansiben Motilal Jain & ors.

.. Petitioners

Vs

Meherji Kaikus Madan & ors.

.. Respondents

Mr.Kiran Jain a/w Mr.Rajan Yadav i/b Kiran Jain & Co., for
Petitioners.

Ms.Eventa Gonsalves, for Respondent Nos.1 and 4.

Mr.Vaibhav Gaikwad i/b Sushma Singh, for Respondent Nos.2 & 3.

***CORAM : N.M.Jamdar, J.
Tuesday, 22 November 2016.***

Oral Order :

The Petitioners challenge the order dated 12 September 2014 passed by the Small Causes Court Judge, Mumbai, allowing the application filed by the Respondent-Plaintiff for leading secondary evidence.

2. Heard learned counsel for the parties.

3 The learned counsel for Petitioners submitted that not only the document is allowed to be produced on record but the impugned order suggests that it is also accepted in evidence. I have gone through the impugned order. The learned Judge has made it clear that the inquiry in the impugned order was only restricted to the

Respondent-Plaintiff seeking to lead secondary evidence and the matter was not at the stage of admissibility of document. Thereafter by the impugned order the learned Small Causes Court Judge has allowed the application which contains a prayer regarding the admissibility of document. However, as already been clarified by the Small Causes Court Judge, the impugned order will have to be construed as permitting the Respondent-Plaintiff to lead secondary evidence and the admissibility and the evidentiary value of the evidence so led will be deemed to have been left open to be decided during the course of the trial as per law. In view of this clarification, no further orders are required to be passed in this Writ Petition. Writ Petition is accordingly disposed of. All contentions of the parties in respect of the secondary evidence are kept open.

(N.M.Jamdar, J.)