

JPP

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

WRIT PETITION NO. 2172 OF 2016

Mr. Ashok Khiani.

... Petitioner.

V/s.

Mahanagar Telephone Nigam Limited.

... Respondent.

Mr. Archit Jaykar a/w. Amogh Joshi i/b. Jaykar & Partners for the
Petitioner.

Mr. Viral Shukla a/w. Priti Patel i/b. M/s. Shukla & Assoc. for the
Respondent.

CORAM : N.M. Jamdar, J.

11 January, 2017.

Oral Order :-

Not on board. Taken on production board by way of
praecipe.

2. Heard the learned Counsel for the parties. In view of the
narrow controversy involved, taken up for final disposal forthwith.

3. By the impugned order the learned Small Causes Court
Judge has refused permission to the Petitioner – Plaintiff to produce

certain documents on record. The learned Counsel for the Petitioner submitted that the documents which have been obtained under the Right to Information Act, 2005 by a person duly authorized, by the Petitioner to lead secondary evidence, were not taken on record by the learned Judge. The learned Counsel submitted that these documents do not form part of the pleadings and no leave has been granted. He also submitted that in respect of some of the documents the Petitioner will have to lead secondary evidence.

4. The learned Small Causes Court Judge has refused to take the documents on record at the first stage itself. It was not necessary to do so. The documents could have taken on record and marked, leaving its evidentiary value to be proved. In these circumstances, liberty can be granted to the Petitioner to place these documents on record subject to its evidentiary value to be proved and subject to the contentions of the learned Counsel for the Respondent regarding need to lead secondary evidence or to seek leave of the Court. Order accordingly.

5. The Writ Petition is disposed of in above terms. All contentions of the parties on merits, as indicated above, are kept open.

(N.M. Jamdar, J.)