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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7025 OF 2017

M/s.Shreepad Electricals & Electronics	...Petitioner
V/s.	
M/s.Four S. Enterprises	...Respondent

Mr.Bhooshan Mandlik for the Petitioner.

Mr.Rujturaj Pawan for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 12TH SEPTEMBER, 2018.

P.C. :-

1. By this petition filed under under Article 227 of the Constitution of India, the petitioner has impugned the order dated 11th November, 2011 passed by the 11th Joint Civil Judge, Junior Division, Kolhapur allowing Exhibit – 10 filed by the original plaintiff *inter-alia* praying for an order and direction against the defendant to produce the originals of document at Exhibit 3/1 to 4. It was the case of the defendant before the learned Trial Court that the defendant had never received any such bills referred to and relied upon by the petitioner and the alleged photo copies thereof were annexed in the proceedings before the learned Trial Court.

2. It is not in dispute that the separate application filed by the defendant for leading secondary evidence is still pending. If it is the

case of the defendant that he has not been served with any such bills from the plaintiff at all, the learned Trial Court could not have issued such directions to the defendant to produce such bills. Be that as it may, since the application filed by the original plaintiff for leading secondary evidence is still pending, such application can be decided on its own merits and an appropriate order can be passed by the learned Trial Court for secondary evidence if the ingredients of section 65 of the Indian Evidence Act are satisfied.

3. The impugned order dated 11th November, 2011 is quashed and set aside with the aforesaid reasons. The writ petition is accordingly disposed of in aforesaid terms. There shall be no order as to costs.

(R.D. DHANUKA, J.)