

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

WRIT PETITION NO. 5517 OF 2018

M/s. Shramik DevelopersPetitioner
V/s.
Mrs. Kavita Harishchandra Vete & Ors.Respondents

Mr. Kashyap Bhalerao for the petitioner.
Mr. R.L. Majgaonkar i/b. Anil L. Desai for respondent nos.1 to 3.

**CORAM : MRS. MRIDULA BHATKAR, J.
DATED : 13TH JUNE, 2018.**

P.C.:

. Rule. Rule made returnable forthwith. Writ Petition is heard finally at the stage of admission.

2. This Writ Petition is directed against the order dated 04th October, 2017 passed by the 3rd Joint Civil Judge, Senior Division, Kalyan thereby rejecting the application for leading secondary evidence seeking permission to lead secondary evidence below Exhibit – 86 in Regular Civil Suit No. 208 of 2003.

3. The petitioner is the original plaintiff who has filed the suit for declaration in respect of the power of attorney which was executed between the defendants / respondents on 29th September, 2009. During the trial and before commencement of the evidence of the plaintiff, the Trial Court directed the plaintiff to produce the documents as prayed by the defendants below Exhibit – 63. The plaintiff produced the documents which are attested copies of the documents and not original documents. The Trial Court has rejected the prayer to lead the secondary evidence. The learned counsel for the petitioner has submitted that many litigations are pending between the parties before different courts and those documents are required to be produced before the other courts and therefore, he be allowed to lead the secondary evidence. The submissions of the learned counsel for the petitioner are not correct in view of the law laid down in the Evidence Act. On query, it is submitted that the original documents are in the custody of the plaintiff. The learned Trial Court has taken correct view that the original documents should come before the Court during trial when the suit is based on those documents. The order passed by the learned Trial Court is not to be interfered with.

4. The original documents are to be produced before the Court.

5. If the plaintiff/petitioner wants to produce the original documents before the other authority than he can do the needful and accordingly, Court may pass the order after verifying and comparing the original documents with the attested copies and their certified copies to be issued by the Officer of this Court himself/herself and thereafter, the permission to withdraw and produce the documents before other Courts can be given.

6. Writ Petition stands dismissed. Rule is discharged.

(MRS. MRIDULA BHATKAR, J.)