

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2087 OF 2019

Samarth s/o Adarsh Patil
and another

Petitioners

Versus

Pushpabai w/o Devidas Patil & others

Respondents

Mr.R.V.Gore, advocate for the Petitioners.
Mr.P.K.Nikam, advocate for Respondent No.1.

CORAM : V.K.JADHAV, J.

DATE : 29^h January, 2021.

PC :

1 Heard the matter finally at the admission stage by consent of learned Counsel for respective parties.

2 This writ petition challenges the order dated 23.11.2018, passed by the trial Court below Exhibit-81 in Special Civil Suit No.40 of 2013.

3 By an order dated 04.07.2016 below Exhibit-57, the trial Court has granted permission to the petitioner-original plaintiff to lead secondary evidence in respect of certain documents. However, instead of leading secondary evidence in

respect of certain documents, petitioner-plaintiff filed an application Exhibit-81 to exhibit certain documents only on the ground that those documents are 30 years' old documents. The learned Judge of the trial Court, by referring various citations on this point, has rightly concluded that the said presumption is applicable to original documents and unless and until original documents are placed before the Court, copies of the said documents cannot be exhibited in terms of Section 90 of the Evidence Act.

4 In view of the same, I pass the following order:

Writ Petition is dismissed. No order as to costs.

(V.K.JADHAV)
JUDGE

adb