

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8583 OF 2021**

Shetkari Milk and Milk Products Ltd ...Petitioners

Versus

M/s. C.R. Construction & Ors ...Respondents

Mr. Surel Shah, for the Petitioners.

Mr. J.M. Joshi, for Respondent No. 1.

CORAM: Smt. Bharati Dangre, J.

DATED: 9th December 2021

P.C.:-

1. The limited controversy which arises, on perusal of the impugned order and on hearing the learned Counsel Mr. Shah for the Petitioner and Mr. Joshi for Respondent No. 1, is whether the deposition and documents in the form of certified copies which are permitted to be exhibited under Section 157 of the Indian Evidence Act merely by its exhibition would be construed as admissible evidence?

The case is that the Plaintiff has produced certified copies of the documents from the record of the Court and the

Court has recorded a finding that the certified copies are admissible in evidence and they can be exhibited in view of Sections 75 and 76 of the Indian Evidence Act. Section 157 of the Indian Evidence Act read as under:

“157. Former statements of witness may be proved to corroborate later testimony as to same fact. — In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved.”

2. From the bare reading of the said section, it is apparent that merely because a certified copy of a statement is exhibited, the onus on the witness to depose the fact that he had made such a statement in some former proceedings cannot be discharged. The respective Counsel are at consensus about the aforesaid legal position emanating from Section 157 of the Indian Evidence Act.

3. True, it is that the learned Judge has allowed documents to be exhibited by keeping recording of examination of the witness open, the order shall operate with a clarification, that in absence of the witnesses being examined to bring the aforesaid documents on record which have been allowed to be exhibited, they shall not be read in evidence.

4. With this clarification, the Writ Petition is disposed of.

(Smt. Bharati Dangre, J.)