

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1345 OF 2020

Subhash Moreshwar Wakalkar .. Petitioner

Vs.

Dattatraya Hari Wakalkar and Ors. .. Respondents

...

Mr. Mahendra M. Agavekar a/w Shraddha Chavan for the Petitioner.

Mr. Siddharth C. Wakankar for the respondent No.1.

...

CORAM : SMT. BHARATI DANGRE, J.
DATED : 07TH OCTOBER, 2021.

P.C:-

1. The Petitioner has assailed orders dated 22nd January 2019 and 4th November 2019, by which his applications for exhibiting documents and leading secondary evidence are rejected by Civil Judge, Senior Division, Pune.

2. The Petitioner, who is the original plaintiff, preferred an application vide Exh. 138, wherein he has stated that the documents on which the plaintiff seeks reliance are not in his possession. They are tendered in the Appeal. Therefore, he has produced photo copies of the same. By the said application, he sought leave to adduce secondary evidence and the said application is also rejected on 22nd

Y.S.Patil

January 2019.

3. Law, as regards secondary evidence being led, has been crystallized by this Court in the decision of **Karthik Gangadhar Bhat Vs. Nirmala Namdeo Wagh and Another (Writ Petition No. 11151 of 2017)**. However, I do not feel it necessary to go into the correctness of the impugned order, since it is informed by the learned Counsel for the Respondent that the Appeal filed by the Plaintiff has been dismissed and the documents which had been tendered in the appeal would now be made available.

4. It is always open for the plaintiff to step into the witness box armed with the documents and then question of leading secondary evidence will not arise.

5. In the wake of aforesaid subsequent development, without deliberating on the correctness of the impugned order, by reserving liberty of the Petitioner, the Writ Petition is disposed of.

[SMT. BHARATI DANGRE, J.]