



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

939 WRIT PETITION NO.14903 OF 2023

**SATISH KANAKMAL KATARIYA DECEASED THROUGH LRS
SMT SUNITA SATISH KATARIYA AND OTHERS
VERSUS
BALWANTKUMARI BANSILAL AHUJA THROUGH POA
KRUSHNAKUMARBANSILAL AHUJA**

...
Advocate for Petitioners : Mr. Amol Karbhari Gawali
Advocate for Respondent : Ms. Shivani Jaiswal
h/f. Mr. S.N. Menchirel
...

CORAM : SHAILESH P. BRAHME, J.

DATE : 06th DECEMBER, 2023

PER COURT :

1. Heard learned counsel for both the sides.
2. An order dated 13th September, 2023, passed below Exhibit 60 in Special Civil Suit No. 114 of 2022, is questioned in this petition. The defendant's application either to de-exhibit the documents concerned or to declare the documents concerned have not been proved is rejected by the learned Judge. Parties are litigating in Special Civil Suit No. 114 of 2022, for possession under Section 6 of Specific Relief Act.
3. The respondent / plaintiff has produced documents vide Exhibit 36 and the list is at Exhibit 37. The documents which are at Exhibit G have been objected by the petitioner as they are exhibited as

Exhibit 39 to 44. Therefore, he tendered application Exhibit 60 challenging the exhibition of the documents.

4. The application is opposed by say at Exhibit 52. According to the respondents no timely objection was raised before exhibiting the documents. The application is actuated by oblique motive for protracting the Trial. By impugned order, learned Judge rejected the application.

5. Learned counsel for the petitioner submits that the documents are private documents. Without following due procedure of law, those cannot be exhibited or read in evidence. Learned counsel for the respondent supports the impugned order.

6. Marking of documents is not a proof of them. In the present matter documents are merely marked that does not dispense with the proof. The litigating parties are entitled to raise the objections for the admissibility of the documents in question and for the probative value.

7. The ends of justice would be met if this petition is disposed of with the clarifications that all objections pertaining to the documents shall be kept open and to be decided during the course of Trial. Hence, writ petition is disposed of.

[SHAILESH P. BRAHME, J.]