

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2869 OF 2023

Eknath Deu Mokashi

...Petitioner.

Versus

Mohan Hemraj Thakkar & Ors.

..Respondents.

Mr. Vishal Patil for the petitioner.

Mr. Mukesh Pabari a/w Mr. Sachin Sarode for respondent.

Coram : Sharmila U. Deshmukh, J.

Date : June 21, 2023.

P. C. :

1. Heard.

2. The challenge in the petition is to the order dated 2nd February 2023 rejecting the petitioner's application seeking deletion / removal of certain pages from the paper book and reconstruction of the paper book. Learned counsel for the petitioner submits that certain documents forming part of the paper book were not given exhibit numbers and, as such, cannot form part of the paper book. He would further submit that the documents on which the objection is raised are enclosures to the main document and being photocopies, were not given exhibit numbers. He would further submit that being

the unexhibited documents, the same cannot form part of the paper book.

3. To counter the submissions of learned counsel for the petitioner, learned counsel for the respondents submits that no objections were raised at the time of exhibiting the main document and the paper book consists of the proceedings of trial Court. He further contends that all objections in that respect can be raised at the time of hearing of the appeal and the petition is premature.

4. Considered the submissions of the parties and perused the impugned order. The appellate Court has observed what evidentiary value to be attached to the photocopies of documents can be considered at the time of final hearing of appeal. The right of the petitioner is not foreclosed as at the time of final hearing of appeal, it is open for the petitioner to raise the necessary objection and point out that only those documents which are exhibited were proved during trial and the enclosures ought not to be read in evidence. In exercise of powers under Article 227 of the Constitution of India, it is not open for this Court to examine the proceedings and come to a finding about the evidentiary value of those documents.

5. In view of the above, there is no cause for interference. Writ petition stands dismissed.

[Sharmila U. Deshmukh, J.]