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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14610 OF 2022

Monaram Samnaji Mewada

..Petitioner

v/s.

The Maneckji Nowroji Sett
Charities Trust & Ors.

..Respondents

Mr. S.P.Shrivastava for the Petitioner/s.

Mr.Ghulam Rasool for the Respondent.

Ms. Heenal Wadhwa i/b. The Law Point for the Respondent No.10.

CORAM : ANUJA PRABHUDESSAI, J.

DATED : 3rd OCTOBER, 2023..

P.C.

1. By this petition filed under Article 227 of the Constitution, the petitioner herein has questioned the legality of the Order dated 18.02.2022 and 25.3.2022, passed by the Small Causes Court, in RAD Suit No. 1810 of 2004.

2. Heard learned Counsel for the Petitioner and learned Counsel for the Respondent.

3. The records reveal that the plaintiff had produced letter dated 14.09.1982 at serial No.6A, submitted by one Dhirajlal Chedda, son of the original applicant, in the office of the landlord. The defendant nos.1

to 7 in the suit had admitted the said document at serial no.6A. Hence, by order dated 05.04.2007, the same was marked as Exhibit C. Subsequently, the defendant no.8 filed an application stating that he had not admitted the document at serial no.6A and could not have been exhibited. The learned Judge therefore by Order dated 18.02.2022 re-numbered Exhibit 6 as Article X.

4. The applicant herein filed a review application, which came to be rejected by order dated 25.03.2022, holding that there is no error apparent on the face of record. Learned Counsel for the petitioner states that having marked the document at Exhibit 6, the learned Judge could not have re-numbered it at Article X.

5. The records reveal that the document was marked as Exhibit C and proof of the document was dispensed with on an assumption that the document was admitted by all the defendants. It may be noted that marking of the document as exhibit is only an administrative act. Mere marking of the document does not dispense proof unless the document is admitted and the genuineness of the contents of the document is not disputed.

6. It appears that the plaintiff has not adduced any evidence in respect of the said document, in view of the order dated 5.4.2007.

hence, with consent, petitioner-plaintiff is permitted to adduce evidence with regard to the document at Exhibit 6A viz. Letter dated 17.07.1982. Petition stands disposed of in above terms.

(ANUJA PRABHUDESSAI, J.)