

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14915 OF 2023

VAIBHAV
RAMESH
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Date: 2023.12.05
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Anand Bhiwa Jadhav

... Petitioner

V/s.

Sunil Shriram Ghodke

... Respondent

Mr. Sagar Joshi for the petitioner.

Mr. A. R. Gole for the respondent.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 5, 2023

P.C.:

1. By the impugned order, the Trial Court permitted plaintiff to lead secondary evidence.
2. This Court in **Karthik Gangadhar Bhat vs. Nirmala Namdeo Wagh and Anr** reported in 2017(6) ALL MR 769 and **Parasanbai Dhanraj Jain and Ors. vs. Sunanda Madhukar Jadhav** reported in 2017(6) ALL MR 877 has held that permission to lead secondary evidence is not necessary. However, at the time of marking documents as Exhibit, the Court is under legal duty to ascertain whether ingredients of section 65 of the Indian Evidence Act, 1872 and other provisions of the Indian Evidence Act have been complied with or not.
3. According to the petitioner, he disputes right of the plaintiff

to lead secondary evidence and he also disputes admissibility of the documents.

4. It is clarified that the Trial Court before marking the documents which are subject matter of application below Exhibit-102 shall decide on mode of proof and admissibility of documents referred in the said application. With this clarification, no interference in the impugned order is called for.

5. The writ petition is disposed of. No costs.

(AMIT BORKAR, J.)