

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.1166 OF 2024****M/s. Shubham Enterprises****....*Petitioner*****V/s.****Prashantbhai Subhashchandra
Thakker and Ors.****....*Respondents***

**Mr. Rahul Kedar with Mr. Aakash Mehta i/b. M/s Mansukhlal Hiralal and
Co. for the Petitioner.****Mr. Rajendra M. Haridas i/b. Mr. Pratik B. Rahade for the Respondents.**

CORAM : SANDEEP V. MARNE, J.**Dated : 9 July 2024****P.C. :-**

1) The challenge in the present petition is to the order dated 15 September 2023 passed by the Small Causes Court, Mumbai, marking several documents filed on behalf of the Plaintiff as exhibits.

2) It is the contention of the Petitioner/ original Defendant No.5 that most of the documents, which are marked, their originals are not produced and there is no averment in the affidavit of evidence that what is sought to be produced is secondary evidence. It is contended that though the affidavit of

evidence states that the originals are being tendered, what are in fact filed alongwith the compilation of the documents are mere photocopies.

3) In my view this petition need not be kept pending on this limited issue of marking of documents as exhibits. It is well settled that mere marking of document as exhibit does not mean that same becomes admissible in evidence. In the present case as well if Petitioner /Defendant No.5 is able to demonstrate before the Court that any particular document, which has been marked as exhibit is inadmissible in evidence said objection will have to be considered by the Trial Court while deciding the suit finally.

4) Clarifying that mere marking of document by order dated 15 September 2023 would not mean that the documents are admissible in evidence and that parties would be free to canvass their submissions on the issue of admissibility, the Writ Petition is disposed of.

[SANDEEP V. MARNE, J.]