

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13455 OF 2024

Kondiba Dattatray Giri

.. Petitioner

Versus

M/s. Rahul Fabric Pro. & Ors.

.. Respondents

.....

- Mr. Sumit Kothari i/by G.J. Jain, Advocates for Petitioner
- Mr. Shailesh Kharat, Advocates for Respondents

.....

CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 14, 2025

P. C.:

1. Heard Mr. Kothari, learned Advocate for Petitioner and Mr. Kharat, learned Advocate for Respondents.

2. At the outset, both the learned Advocates would inform the Court that the word "*stolen*" appearing in the penultimate line of page No. 1 of the order dated 11.08.2025 be replaced with the word "*lost*" in view of its correct nomenclature. Correction to the said effect be carried out in the above order and corrected order be uploaded afresh. Rest of the order remains as it is.

3. Present Writ Petition pertains to rejection of two Applications filed by Petitioner during the course of ongoing trial before the Trial Court. First Application pertains to the request made by Petitioner to place on record Application made under RTI and response received thereto from the Police Authorities, *inter alia*, which pertains to the

defence which has been taken by Respondents in the proceedings before the Trial Court.

4. Both the documents being in public domain, Mr. Kharat in his usual fairness would submit that the same can be allowed to be marked in evidence subject to Petitioner proving them by leading appropriate secondary evidence in accordance with the provisions of Section 65 of the Indian Evidence Act, 1872. Undoubtedly Respondents shall have opportunity to cross examine witness of Petitioner when such secondary evidence on the aforesaid two documents is led.

5. Second Application rejected pertains to Application made by Petitioner for placing on record certified copies of Section 138 proceedings in the Criminal Court albeit not between the same parties but concerning the Respondents as Petitioner desires to argue about the conduct of Respondents. Be that as it may, documents which are foreign to the cause of action in the present Suit cannot be allowed to be produced in evidence. However at the time of final arguments, Petitioner will be at liberty to refer to and rely upon the said documents subject to the objections raised by Respondents and the Court can decide the course of action strictly in accordance with law as to whether any reliance can be allowed to be placed on the said documents and decide the same accordingly. Those proceedings

cannot be allowed to be marked as Exhibits in evidence in the present Suit proceedings.

6. In view of the above, present Writ Petition stands partly allowed. Needless to state that this Court has not expressed any opinion on the rights of parties before Court and Trial Court shall strictly determine the Suit proceedings before it in accordance with the provisions of the Indian Evidence Act and the extant statutory provisions of law.

7. In view of exigency mentioned by both the learned Advocates at the bar jointly, Reference (IDA) No. 171/2017 is directed to be disposed of as expeditiously as possible and in any event within a period of two months from today. Parties shall not take any unnecessary adjournments unless absolutely necessary. Both the parties assure the Court that they shall cooperate with the Trial Court in determining the Reference within the aforesaid timeline.

8. With the above directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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