

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 17321 OF 2024**

Ketan Dilip Shah & Ors

..Petitioners

**Versus**

Chandrakant Kantilal Shah deceased Through  
LRs & Ors

...Respondents

Mr. Rubin Vakil, with Amey R. Deshpande, Gaurang C. Jhaveri, Harsh Nishar & Vandana Bait, for the Petitioner.  
Mr. Sharan Jagitani, Senior Advocate, with Prasana Tare & Sankalpita Mulick, for Respondent Nos. 1/1 to 1/3, 2 to 4, 8 to 10.  
Mr. Kunal Vajani, with Shubhang Tonden & Akshada Shetye, for Respondent No.26.

**CORAM: N. J. JAMADAR, J.**

**DATED : 14 JANUARY 2025**

**P.C.:**

- 1.** Heard learned Counsel for the parties.
- 2.** The challenge in this petition is to the orders dated 12<sup>th</sup> November 2024 passed by the learned Civil Judge, Senior Division, Thane, on the applications calling upon the plaintiffs to admit, and mark the documents in evidence.
- 3.** Both the applications were rejected by the learned Civil Judge. In the order dated 12<sup>th</sup> November 2024, application (Exhibit “258”), the

ARUN  
RAMCHANDRA  
SANKPAL

Digitally signed by  
ARUN RAMCHANDRA  
SANKPAL  
Date: 2025.01.17  
17:46:44 +0530

learned Civil Judge had *inter alia* observed that, defendant nos. 11 to 13, the petitioners herein, could take recourse to Section 63 of the Evidence Act to lead secondary evidence, if the conditions stipulated in Section 65 of the The Evidence Act were satisfied.

**4.** During the pendency of this petition, the Court is informed that such an application was preferred and, by order dated 13<sup>th</sup> December 2024 passed on said application (Exhibit “265”), defendant nos. 11 to 13, petitioners herein, have been permitted to lead secondary evidence in respect of documents at serial nos. 8 to 12 annexed with list (Exhibit “245”) and serial nos. 2 and 3 annexed with list (Exhibit “249”) and a document annexed with list (Exhibit “247”).

**5.** In view of the aforesaid order, the petitioners-defendant nos. 11 to 13 have tendered those documents and led secondary evidence in proof thereof.

**6.** The learned counsel for the petitioners submitted that though the execution of those documents is admitted, yet, contents are disputed.

**7.** In this writ petition, this Court need not delve into the aspect of marking of the documents in evidence. It would be for the trial court to examine the aspect of marking of documents, in accordance with law.

**8.** Mr. Jagtiani, learned Senior Advocate, for the respondents informs the Court that the time stipulated by this Court by an order dated 5<sup>th</sup> April 2023 in appeal from order No. 213 of 2023, as extended

by a further order dated 25<sup>th</sup> April 2024, has expired in the month of December 2024.

**9.** The learned Counsel for the petitioners submits that the petitioners are the only defendants, who are in the process of leading evidence.

**10.** In these circumstances, the time to dispose of Special Civil Suit No. 776 of 2011 stands extended by four months from the date of communication of this order.

**11.** Petition disposed.

[N. J. JAMADAR, J.]