IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8038 OF 2025

Indrakumar Dwarkadas Chhabria … Petitioner
and Ors.

V/s.

Karishma A. Chugh and Ors. … Respondents

Rahul Narichania, Senior Advocate with Amey Patil and Riya Thakkar i/by Tushar Goradia, for the petitioner.

Advocate Sanaea Umrigar with Carl Patel, for the respondent nos. 4 to 8.

Mr. Abhishek Khare i/by Khare Legal Chambers for the Respondent Nos. 9 to 12.

CORAM : N.J. JAMADAR, J.

DATE : 23RD JUNE 2025.

PC:

1. Heard the learned counsel for the parties.

2. The challenge in this petition is to an order dated 7th March 2025, whereby the learned Judge Court of Small Causes had declined to admit and mark the documents in evidence.

3. I have perused the order passed by the learned Judge determining the admissibility of the documents.

4. So far as the documents are at Sr. Nos. 14, 15 and 16

(referred to in Para Nos. 4 and 5 of the impugned order) the documents being the copies of orders passed by the Court in Company Petitions, the petitioner can very well obtain the certified copies of those orders and produce the same before the Trial Court.

5. So far as the documents at Sr. No. 36, (referred to in Para 20), the petitioner is at liberty to prove the said document in evidence by following the procedure for proof of electronic evidence.

6. As regards, the document at Sr. No. 49(referred to in Para 25), if the petitioner produces the print out of the official website of India Post, there can be no impediment for marking the said document.

7. As regards the documents at Sr. Nos. 17 and 18 (referred to in Para No.6), Sr. No. 23 (referred to in Para No.9), Sr No.26 (referred to in Para No.11), Sr. No. 32 (referred to in Para No.17) and Sr. Nos. 37, 38 and 39 (referred to in Para No.21), the learned Judge declined to mark the documents as Exhibits for the reason that only photostat copies of the documents were produced before the Court

8. The learned Senior Advocate for the petitioner, submitted that the petitioner had given notice to the respondents to produce those documents, there was no reply to the notices and, thus, the petitioner had adduced secondary evidence of those documents. The

learned Judge did not consider these factors.

9. From the perusal of the relevant paragraphs in the impugned order, it appears that the learned Judge had not at all referred to the fact that the notice under Section 66 of the Evidence Act was given to produce the documents, or for that matter, the petitioner made an effort to prove those documents by adducing secondary evidence.

10. The Court also finds that few of the documents were admitted by the respondents and yet for the reason that the photostat copies of the documents were produced, the learned Judge declined to mark those documents.

11. The consideration is not adequate and in accordance with provisions of law. Therefore, the matter is required to be remitted back to the Trial Court for afresh consideration in the light of the governing provisions of law.

12. Subject to aforesaid clarification, the aspect of admissibility of documents is remitted back to the learned Judge, Court of Small Causes, for a fresh determination.

13. All the contentions of the parties on the admissibility of the documents are kept open for consideration by the Trial Court.

14. If the petitioner applies, the certified copies of the orders at Sr. Nos. 14, 15 and 16 be furnished to the petitioner as expeditiously as possible.

15. The petition stands disposed.

(N.J. JAMADAR, J)

Signed by: S.S.Phadke
Designation: PS To Honourable Judge
Date: 24/06/2025 19:34:54