

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12859 OF 2025

Chandrakant Kantilal Shah Since
Deceased Through LRs. And Ors. ...Petitioners

Versus

Maria Felicia Sequeira And Ors. ...Respondents

SANTOSH
SUBHASH
KULKARNI

Digitally signed by
SANTOSH SUBHASH
KULKARNI
Date: 2025.10.08
17:59:45 +0530

Mr. Sharan Jagtiani, Senior Advocate, a/w Rohil Bandekar,
Siddharth Joshi, Sankalpita Mullick, Prasanna Ture,
Shubhang Tandon, for the Petitioners.

Mr. Drupad Patil, a/w S. M. Sule, for Respondent Nos.2 and
3.

Mr. Kunal Vajani, a/w Akshada Shetye, Pakshata Valte,
Sumit Khandare, for Respondent No.52.

CORAM: N. J. JAMADAR, J.
DATED: 7th OCTOBER, 2025

Oral Order:-

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 9th September, 2025, whereby the learned Civil Judge has permitted the plaintiff to lead secondary evidence of documents filed with list (Ex.3/1, 33/8, 76/1 to 76/3, 338/2 to 338/8, 340/3 and 340/4).
3. Mr. Jagtiani, the learned Senior Advocate for the petitioners, submitted that while deciding the question as to whether the plaintiffs are entitled to lead secondary evidence

of the abovereferred documents, the learned Civil Judge has also determined the issue of proof of the documents by observing that,

“The rest of the documents are certified copies of the Court record and so they are admissible in evidence as per Section 74 of the Indian Evidence Act.”

4. Mr. Patil, the learned Counsel for respondent Nos.2 and 3, fairly submits that, the aforesaid ruling of the learned Civil Judge was not based on the submissions made by the parties.

5. The impugned order to the extent it permits the plaintiffs to lead secondary evidence, does not warrant any interference. However, it would be suffice to clarify that, the issue before the learned Civil Judge was, whether the plaintiffs, in the circumstances of the case, were entitled to lead secondary evidence. At that stage, after observing that, the plaintiffs were entitled to lead secondary evidence, the learned Civil Judge ought not have decided the issue of admissibility of all the documents, which are part of the Court record, under Section 74 of the Indian Evidence Act. Only those documents which are designated as public documents under Section 74 of the Indian Evidence Act are admissible as public documents. Whether each of those

documents which form part of the Court record and of which certified copies are filed, satisfies the requirement of a public document is a matter to be considered by the learned Civil Judge.

6. Therefore, the last sentence in paragraph 19 of the impugned order, extracted above, stands expunged from the impugned order.

7. The learned Civil Judge is requested to decide the issue of admissibility and proof of each of the documents in accordance with law.

8. The petition stands disposed.

[N. J. JAMADAR, J.]