



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.916 OF 2026**

Vardhman Oil Corporation ... Petitioner
versus
Ahmed Oomerbhoy, a Partnership Firm and Ors. ... Respondents

Mr. Abbas Zaidy with Mr. Aditya A. Kavale i/by Zohair and Co., for Petitioner.
Mr. Pradeep Thorat with Mr. Ganesh Ambekar i/by Jariwala Associates, for
Respondent No.3.
Mr. Sameer A. Alekar, Section Officer, Office of the Court Receiver, present.

CORAM: N.J.JAMADAR, J.

DATE : 10 FEBRUARY 2026

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 11 August 2025 whereby the learned Judge, City Civil Court, declined to mark documents at Sr. Nos.1 to 13, 15, 15(a) and 17, included in the list of documents filed on behalf of the Plaintiff (Exh.B-1).
3. The Plaintiff took out Notice of Motion No.5471 of 2025 seeking to recall the said order dated 11 August 2025 and mark the documents in evidence on the basis of the affidavit in lieu of examination in chief filed on behalf of the Plaintiff on 21 April 2014. By an order dated 3 December 2025, the said Notice of Motion came to be dismissed. The learned Judge, City Civil Court, by an order dated 11 June 2025, inter alia, rejected the prayer of the Plaintiff to file additional affidavit of evidence along with list of documents and directed

Defendant No.2(b) to file affidavit of evidence and compilation of documents.

4. Learned Counsel for the Petitioner submitted that the reasons ascribed by the learned Judge, City Civil Court that the documents cannot be marked until the Plaintiff shows how the Plaintiff came in the custody of those documents is not sustainable. Attention of the Court was invited to the Chartered Accountant's report submitted to the Court Receiver, wherein the CA has made reference to the production of original documents. It was submitted that the said CA report, in the least, ought to have been marked in evidence as the said report was accepted by this Court in SS No.4913 of 2000, by an order dated 12 July 2002.

5. From the perusal of the order dated 11 August 2025 marking the documents in evidence, it appears that the learned Judge, City Civil Court declined to mark those documents, at that stage. It was, inter alia, observed that the Plaintiff has to show as to how the Plaintiff came in custody of those documents. The court is informed that the cross-examination of the Plaintiff's witness is yet to commence. In these circumstances, the proper course for the Plaintiff would be to lead further evidence. Even after filing affidavit in lieu of examination in chief, the Plaintiff can put the witness in the witness box and get the documents marked in evidence.

6. Since the learned Judge, City Civil Court has rejected the prayer of the Plaintiff to file additional affidavit in lieu of examination in chief, the Plaintiff

can be permitted to adduce evidence in relation to those documents and prove those documents in evidence.

7. This Court, therefore, considers it appropriate to quash and set aside the said order dated 11 June 2025, whereby the prayer of the Plaintiff to file additional affidavit in lieu of examination in chief came to be rejected.

8. The Plaintiff is permitted to file an additional affidavit in lieu of examination in chief and also lead further evidence before the trial Court to prove the documents in evidence, which the Trial Court has declined to mark, by the impugned order dated 11 August 2025.

9. Since the CA report has been exhibited by this Court by an order dated 12 July 2002 in SS No.4913 of 2000, the trial Court shall have due regard to the said fact while deciding the aspect of marking of the CA report.

10. It is, however, clarified that, while determining the issue of marking of the documents, the Trial Court shall not be influenced by any of the observations made in the order dated 3 December 2025, whereby the Notice of Motion No. 5471 of 2025 came to be rejected.

11. With the aforesaid directions, the Writ Petition stands disposed.

(N.J.JAMADAR, J.)