

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1479 OF 2026

Daruwalawadi Co-op. Hsg. Soc. Ltd. ... Petitioner
versus
Sita wd/o Pukhraj Chunilal Bafna and Ors. ... Respondents

SWAROOP
SHARAD
PHADKE

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Mr. Sanjeev Gorwadkar, Sr. Advocate with Mr. Bharati Mahant, Ms. Trupti Gage i/by Divya Shah Associates, for Petitioner.
Mr. Pradeep Thorat with Mr. Mutahhar Khan, Mr. Sanket Mungale, Mr. Yash Dhankad i/by Pratik K. Shah, for Respondent Nos.1 to 5.

CORAM: N.J.JAMADAR, J.

DATE : 10 MARCH 2026

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 13 October 2025, whereby the learned Judge, City Civil Court has admitted and marked the documents tendered on behalf of the Defendants in evidence.
3. Learned Judge, City Civil Court, was of the view that, only the documents at Sr. Nos.9, 24 and 26 were the photostat copies and rest of the documents were original. Learned Judge, thus, admitted the documents in evidence and marked them as exhibits subject to legality and admissibility.
4. The Petitioner – Plaintiff assailed the order on the ground that the finding of the learned Judge that, only the documents at Sr. Nos.9, 24 and 26 were the photostat copies, is not correct. Photostat copies of the documents,

other than the documents at Sr. Nos.9, 24 and 26, were also admitted and marked in evidence, despite objection to the admissibility of those documents.

5. As the dispute between the parties primarily revolved around the aspect as to whether rest of the documents were original, the parties were directed to take inspection of the documents. Now there is a consensus that the documents at Sr. Nos.9, 19, 21, 24 and 26 are the photostat copies.

6. In this view of the matter, learned Judge, City Civil Court would be required to pose unto himself the question as to whether the Defendants have led adequate secondary evidence in proof of the documents at Sr. Nos.9, 19, 21, 24 and 26. The learned Judge would also be required to decide the question as to whether rest of the documents have been legally proved in evidence.

7. It is trite, mere marking of the document is not the proof of the documents. Though, in the impugned order, learned Judge has observed that the issue of legality and admissibility of the documents are kept open, yet, the learned Judge would be required to consider the question as to the proof of the documents as well.

8. The Writ Petition, thus, stands disposed with a clarification that the admission of documents in evidence or marking of the documents would not preclude the Plaintiff from contending that the documents which have been admitted and marked in evidence have not been duly proved or the

correctness of the contents thereof has not been proved. The question of proof of documents either by way of primary or secondary evidence shall, thus, remain open for adjudication by the learned Judge, City Civil Court.

(N.J.JAMADAR, J.)