

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***T. & I. J.*****TESTAMENTARY SUIT NO. 12 OF 1999****IN****TESTAMENTARY PETITION NO. 1087 OF 1998****Pradeep Kumar Anand****..... Plaintiff****VERSUS****Dilip Kumar Anand****..... Defendant**

Mr.Zuben Behramkamdin, i/b. Mr.M.G.Gawde for the Plaintiff.

Ms.Chhaya Pandya for the Defendant.

CORAM : R.D. DHANUKA, J.**DATE : 12th JULY, 2017****P.C.**

The defendant has sought to rely upon three documents. The plaintiff has filed statement of admission and denial dated 11th July, 2017 and has disputed these three documents.

2. Insofar as document at serial no.1 i.e. affidavit of Mr.Dilip Anand in support of caveat dated 19th February, 1999 is concerned, his affidavit is part of the pleading and thus need not be numbered as exhibit. The defendant can rely upon the said affidavit at the time of hearing.

3. Insofar as document at serial no.2 i.e. First Information Report No.85 of 2015 is concerned, in view of the deposition of the witness in paragraph (7) of the affidavit in lieu of the examination in chief dated 12th July, 2017 and in view of the witness Mr.Dilip Laxmichand Anand having produced the original certified copy of the said FIR, First Information Report No.85 of 2015, the original of the certified copy of the FIR No.85 of 2015 from page nos. 12 to 15 is taken on record

in evidence subject to proof of contents.

4. Insofar as document at serial no.3 is concerned, the said document can be produced by the defendant through the Forensic Expert who is sought to be examined by the defendant's advocate and thus need not be marked at this stage through this witness and hence the original of the said document is returned to the advocate for the defendant.

5. Learned counsel appearing for the defendant seeks liberty to rely upon the additional documents in this suit and has agreed to serve a copy of the compilation thereof upon the plaintiff's advocate within two weeks from today. The statement is accepted. It is made clear that if the compilation of the documents is not served upon the plaintiff's advocate within two weeks from today, the defendant will not be allowed to rely upon any additional documents. The plaintiff shall file statement of admission and denial in respect of such documents within one week from the date of the service of those documents.

6. Place the matter on board for marking of the documents on **16th August,2017.**

7. At the request of the learned counsel for the defendant, time to carry out amendment granted by this court by an order dated 14th June, 2017 is extended by one week from today.

8. By consent of parties, Mr.Swanand R.Ganoo, advocate is appointed as a Court Commissioner for recording evidence of remaining witnesses in the matter.

(R.D.DHANUKA, J.)