

IN THE COURT OF BOMBAY CITY CIVIL COURT
AT GREATER MUMBAI

ORDER BELOW EXH.12

IN

SU.NO. 3171 OF 2011

NAVIN A. PATEL **Plaintiff**

V/s.

SUBRAY CATAL CHEM PVT. LTD. **Defendant**

O R D E R

Plaintiff filed this application for permission to lead secondary evidence.

2. Perused application. According to plaintiff the original documents at sr.no.3,8 and 9 were tendered by plaintiff for encashment of same (cheques). With the IDBI bank. Thereafter plaintiff closed the account and thus original thereof are not in the custody of plaintiff. Thereby plaintiff intends to lead secondary evidence thereof. So also plaintiff filed the internet printouts of the order passed by Hon'ble Justice Shri. S.J. Kathawala and thereby intends to rely on the internet download copies of the order. The original pay orders were submitted by plaintiff for encashment to the

HDFC bank and thus not in custody of plaintiff. Thus plaintiff intends to lead secondary evidence of the documents as evidence cannot be lead without causing unnecessary delay.

3. Defendant was served but absent and thereby this application proceeded without reply of defendant.

4. As per the provisions of law and Sec.65 of the Indian Evidence Act,1872, parties can lead secondary evidence about the contents of the documents as provided therein. Plaintiff put forth sufficient and justified reasons for not producing the original documents. The photocopies of the documents were obtained by plaintiff and now produced before the Court. The statements of accounts are the public document. The internet downloaded copy of order can be taken on record. Nothing to disbelieve the contentions in the application. Thus no harm or prejudice will be caused to the other side if application is allowed and permission is granted as sought for. Hence following order :

O R D E R

1. Application Exh.12 is allowed.
2. Permission granted to lead secondary evidence of the documents as claimed, as per the provisions of Sec. 65 of Indian Evidence Act.
3. No order as to costs.

Dt: 28/1/16

**(Ajay Dinode)
Judge City Civil Court,
Gr.Mumbai.**

