

ORDER ON IA NO.36

The defendant No.5 has filed present application under Order 8 Rule 1(a) R/w Order 11 Rule 1(10) of CPC seeking to produce original Board Resolution authorizing its Representative and original paper publication notices along with Sec.65B certificate and Incorporation Certificate of defendant No.5.

2. It is averred in the affidavit of Authorized Representative of defendant No.5 that, above documents could not be produced at the time of filing of written statement or during course of case, as same could not be traced due to paucity of time. Hence defendant No.5 had filed copies of the same. Now defendant No.5 seeks to produce above documents with bonafide reasons and it will be put to grave loss and hardship, if the application is now allowed. These amongst other grounds, it is prayed to allow the application.

3. The plaintiffs has filed objections to above application, wherein its averred that, the application is not maintainable and same is liable to be dismissed. Further the application is highly belated and defendant No.5 cannot be permitted to produce

original documents with lieu of the court. Further the application is untenable and does not merit any consideration and plaintiff will be put to prejudice if application is allowed. These amongst other grounds, it is prayed to reject the application.

4. The following points arise for consideration;

1. Whether defendant has made out grounds to permit production of aforesaid documents, as prayed for in the application?

2. What order?

5. Heard arguments of both sides, perused records.

6. My answer in the above points are as under:

***Point No.1:- In the Affirmative,
Point No.2:- As per final order,
for the following:-***

REASONS

7. Point No.1:- The plaintiff has initially filed present suit against defendant Nos.1 to 4 seeking relief of recovery of Rs.5 Crores borrowed by defendant No.1 company under Mortgage Deed dtd.04.04.2014 executed by defendant No.4 along with interest at the rate of 24% pa., and it is further prayed to declare that Mortgage Deed dtd.28.05.2015 executed by defendant No.1 in

favour of defendant Nos.2 and 3 is not binding upon plaintiff. It is further prayed that in the event of defendant Nos.1 and 4 failing to repay the above dues, to order for sale of plaintiff schedule properties belonging to defendant Nos.1 and 4 and to pay the plaintiff out of sale proceeds of such properties. Subsequently defendant Nos.5 and 6 have been impleaded in present suit as per order on IA No.4 dtd.05.03.2022 on specific ground that they being subsequent purchasers of mortgaged property are necessary parties. Now the issues are framed and the matter is posted for evidence of defendants Nos.1 and 5.

8. At this stage, when the case is posted for evidence of defendant No.5, said defendant has come up with present application seeking to produce above documents. It is specifically mentioned that, the copies of above documents were already produced and now defendant No.5 intends to produce its originals. Moreover, the said aspect is not deemed to have been disputed by other side and in view of defence taken by defendant No.5 in the suit, it may be permitted to produce aforesaid documents for

effective adjudication of the case. The delay caused to other side may be compensated by means of costs. Hence sufficient grounds are made out by defendant No.5 to permit production of aforesaid documents. Accordingly, **Point No.1 is answered in the Affirmative.**

9. Point No.2:- For the reasons stated and findings given on point No.1, following is:

ORDER

IA No.36 filed by defendant No.5 under Order 8 Rule 1A R/w Order 11 Rule 1(10) of CPC is hereby allowed on costs of Rs.500/-.

The documents enclosed with said application are taken on record.

[Dictated to the Stenographer Grade-III, directly on the computer, typed by her, then corrected and signed by me and pronounced in the Open Court, dated **this the 12th day of December 2025**]

(ANAND T. CHAVAN)

LXXXIV Addl.City Civil & Sessions Judge,
Bengaluru.