

Prakash Baburao Tupe
Vs
Yashwant Baburao Tupe etc 2

ORDER BELOW EXH –490

This is an application by defendant no. 2 for the permission of lead secondary evidence.

2] He has contended that, by way of notice dated 24/03/2026 under Section 66 of Evidence Act, defendant no. 4 called upon to produced certain original documents. However, he refused. Those documents are essential for the just decision of the suit. He obtained certified copy of those documents from concern authority and submitted on record. The said copies are misplaced and he is unable trace out the same. The Xerox Copies of the said documents are on record at Exh. 212. Now he has no alternative to prove those documents by way of secondary evidence. He is ready and willing to prove the existence of the same. No prejudice will be caused to any parties, if the production of the same is allowed.

3] Defendant no. 1 submitted that necessary order may be passed. Defendant no. 4 resisted application by say at Exh.493. He has contended the defendant no. 2 is neither author nor recipient of those documents sought to be produced. He failed to demonstrate any legal right, in relation to the documents in questions. Those are not addressed to defendant no.2, hence, he cannot seek permission to produce secondary evidence. Defendant no. 2 has established the lawful entitlement to rely upon the original documents and satisfies the conditions prescribed. Mere possession of photocopies confer any right to produce the same on record. Vaguely he has mentioned that those documents are misplaced. Lastly, he has prayed for

rejection of application.

4] Perused entire record. It appears that the suit is for partition, separate possession etc. Before, submission of secondary evidence it is necessary to prima facie prove the existence of those documents and there is no possibilities of manipulation in the same. It is not say of defendant no. 4 that the copies sought to be produced by defendant no. 2 are not from the original. Mere production of documents is not sufficient to prove the contents mentioned therein. After all every party has to stand upon his own legs. He has to comply all the formality in respect of proof of documents. As per his version the documents sought to be produced are copies of the original. Hence, there is no impediment to allow him to produce the copies on record. Mere, production cannot accrued any right to the defendant no. 2 in respect of those documents. Therefore, the application deserves to be allowed, and I proceed to pass the following order-

ORDER

1. Application is allowed.
2. Defendant no. 2 is only permitted to produce copies of original documents on record
3. No order costs

Pune.
Date – 02.07.2026.

(S. A. Mulik)
15th Jt. Civil Judge Sr. Div., Pune.