

**IN THE COURT OF THE SENIOR CIVIL JUDGE &
JMFC, SHAHAPUR**

Dated this the 06th day of June-2026

Present: Smt. Hema Pastapur, B.A.,L.L.B.

SENIOR CIVIL JUDGE & JMFC, SHAHAPUR

OS No.273/2022

Plaintiff: Geeta W/o Hanmantrayagouda
Patil

(By Sri.Y.S., Advocate)

Defendants: Mallamma W/o Nagappa Kumar &
Others.

(By Sri.S.A., Advocate)

IA No.IV

Dated: 09-02-2026

Objections filed on 08-04-2026

Disposal off IA No.IV dated 06-06-2026

ORDER ON I.A NO.IV

1. That, the Plaintiff filed the application under Section 65 of the Indian Evidence Act/ Section 60 of the Bharatiya Sakshya Adhiniyam, with accord her the permission to lead Secondary evidence in respect of the registered Agreement of Sale document bearing No.5195/2010-11 dated 14-02-2011.

2. That, the plaintiff in her affidavit has pleaded that she had lost the said document and for which she lodged the complaint in Shahapur Police Station and the said Police have issued the acknowledgment and she had also got published the said in Samyukta Karnataka daily News paper. That, the plaintiff has further contended that the said document is very much necessary to decide the lis between the parties.

3. That, the defendants have filed their objections to said application denying all the contentions of the plaintiff and prayed for rejecting the said application.

4. That, I have heard arguments and perused the materials placed on record.

5. That, the following points arise for My consideration and determination are as under :-

1. Whether the plaintiff has made out the grounds to allow her said application as prayed for?

2. What order?

6. That, My answer to the aforesaid points are as under :-

Point No.1:- In the **AFFIRMATIVE**.

Point No.2:- As per the final order for the following :-

:- R E A S O N S :-

7. **Point No.1:-** That, the plaintiff is seeking the permission to lead a Secondary evidence in respect of the alleged Agreement of Sale.

8. It is to noted here that, Section 65 of the Indian Evidence Act and Section 60 of the Bharatiya Sakshya Adhiniyam runs as under:-

65. Cases in which secondary evidence relating to documents may be given.—Secondary evidence may be given of the existence, condition, or contents of a document in the following cases:

—

(a) when the original is shown or appears to be in the possession or power —

of the person against whom the document is sought to be proved, or of any person out of reach of, or not subject to, the process of the Court, or of any person legally bound to produce

it, and when, after the notice mentioned in section 66, such person does not produce it;

- (b) when the existence, condition or contents of the original have been proved to be admitted in writing by the person against whom it is proved or by his representative in interest;**
- (c) when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time;**
- (d) when the original is of such a nature as not to be easily movable;**
- (e) when the original is a public document within the meaning of section 74;**
- (f) when the original is a document of which a certified copy is permitted by this Act, or by any other law in force in 1[India] to be given in evidence;**
- (g) when the originals consist of numerous accounts or other documents which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection.**

In cases (a), (c) and (d), any secondary evidence of the contents of the document is admissible.

In case (b), the written admission is admissible.

In case (e) or (f), a certified copy of the document, but no other kind of secondary evidence, is admissible.

In case (g), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such documents.

60. Cases in which secondary evidence relating to documents may be given.—Secondary evidence may be given of the existence, condition, or contents of a document in the following cases, namely:—

- (a) when the original is shown or appears to be in the possession or power—**
 - (i) of the person against whom the document is sought to be proved; or**
 - (ii) of any person out of reach of, or not subject to, the process of the Court; or**
 - (iii) of any person legally bound to produce it,**

and when, after the notice mentioned in section 64 such person does not produce it;

- (b) when the existence, condition or contents of the original have been proved to be admitted in writing by the person against whom it is proved or by his representative in interest;**
- (c) when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time;**
- (d) when the original is of such a nature as not to be easily movable;**
- (e) when the original is a public document within the meaning of section 74;**
- (f) when the original is a document of which a certified copy is permitted by this Adhiniyam, or by any other law in force in India to be given in evidence;**
- (g) when the originals consist of numerous accounts or other documents which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection.**

Explanation.—For the purposes of—

- (i) clauses (a), (c) and (d), any secondary evidence of the contents of the document is admissible;**
- (ii) clause (b), the written admission is admissible;**
- (iii) clause (e) or (f), a certified copy of the document, but no other kind of secondary evidence, is admissible;**
- (iv) clause (g), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such document.**

9. It is to be noted here that, in present case the plaintiff has furnished the certified copy the said Sale deed and got marked the copy of acknowledgment furnished by the Shahapur Police and Paper publication of Samyukta Karnataka.

10. It is to be noted here that, the defendants are not seriously obstructed for the said application. It is to be noted here that, the plaintiff has complied with the mandatory provisions of Section 65 of the Indian Evidence Act and Section 60 of the Bharatiya Sakshya Adhiniyam. It is to be noted here that, there is no impediment to allow the plaintiff to lead the Secondary

evidence of said alleged Sale deed on which the entire case is revolving. Hence, I answer point No.1 in **AFFIRMATIVE**.

11. **Point No.2:-** That, as discussed on point No.1, I proceed to pass the following :-

:- O R D E R :-

That, the application filed by the plaintiff under IA No.IV is hereby allowed.

That, the plaintiff is permitted to lead the Secondary evidence in respect of the Registered Agreement of sale document bearing No.5195/2010-11 dated 14-02-2011.

(Directly dictated to the typist-copyist, typed by him, corrected by me and then pronounced in the open Court on this 06th day of June -2026).

(Hema Pastapur)
Sr. Civil Judge & JMFC,
Shahapur.