

MHAU060003942016



R.C.S./51/2016

**Rafeeqkhan Rasheedkhan Vs. Sk. Naseer Sk. Vazeern**      ORDER  
BELOW EXHIBIT 35 IN REGULAR CIVIL SUIT NO. 51 OF 2016

1. The present application is filed below on behalf of the Plaintiff to seek permission for leading secondary evidence under Section 65 of the Indian Evidence Act, 1872.
2. The Plaintiff submits that the Defendant has filed suit with respect to Gat number 47 which is also a suit property of the present suit. The Regular Suit no. 11 of 2016 is pending with respect to the same. In such background, the original certificate issued by the Consolidation officer under the provisions of Section 24 (1) of the Maharashtra Prevention of Fragmentation and Consolidation Act is filed in the said other suit. Hence, it is not possible to produce the original certificate on record. Therefore, it is prayed to grant permission for producing secondary evidence with respect to the said certificate. It is also mentioned that no prejudice will be caused to the Defendant if such application is allowed. Thus, it is prayed to allow the application.
3. The Defendant has filed say below the same application and mentioned that the application is false and frivolous. The content of the application is not at all relevant with the suit for perpetual injunction. There is no provision to pray for secondary evidence. Hence, it is prayed to reject the application.

4. I have heard the arguments advanced by both sides. It appears that the copy of the document is produced below Exhibit 4/1. It is apparent that the said Regular Civil Suit no. 11 of 2016 is filed. It is also admitted situation from the written statement of the Defendant that such certificate was issued by the Consolidation authority. Hence, in the background of such admitted facts and circumstances there is no hindrance to rely on the copy of the document as prayed by the Plaintiff. As the conditions of Section 65 of the Indian Evidence Act, 1872 are satisfied, I pass following order:-

- a. The application is allowed.
- b. The Plaintiff is allowed to lead secondary evidence of the document as prayed.

22 October 2024

Vinayak Dattatray Patil  
Civil Judge Junior Division, Kannad