

MHAU130000132009



R.C.S. No. 1400147/2010
Kusum Sirish Jaikar Vs. Municipal Corporation, Aurangabad
ORDER BELOW EXH.219

Present application is made by the defendant Nos.1 and 2 for permission to adduce secondary evidence of a notice dated 01.10.2009 issued to plaintiff and a panchnama dated 01.10.2009 with rough map. Read the application and reply of plaintiff at Exh.220. Heard Ld. Advocates for the rival parties.

2. It is submitted by learned advocate for the defendant Nos.1 and 2 that, a notice dated 01.10.2009 issued to plaintiff and a panchnama dated 01.10.2009 along with rough map are searched by defendant Nos.1 and 2 in its office. However, these documents are not available in its record room. These documents are old and might have been destroyed as per the policy of the commissioner. Its xerox copies are already filed by them with list Exh.20. Therefore, it is necessary to permit defendant Nos.1 and 2 to adduce its secondary evidence.

3. Ld. Advocate for plaintiff submitted that, the xerox copies of these documents are not admissible in evidence. The defendant Nos.1 and 2, being a public body, cannot make a statement that these documents are destroyed. The plaintiff has denied the genuineness and authenticity of these documents. Therefore, no permission can be

granted to defendant Nos.1 and 2 to adduce its secondary evidence.

4. The statement made by defendant Nos.1 and 2 about the destruction of originals of said document is supported by affidavit. Therefore, there is no reason to disbelieve the statement made in this application in this regard. Section 65(c) of the Evidence Act, 1872 provides that secondary evidence may be given of the existence, condition, or contents of a document 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. This section further provides that, any secondary evidence of the contents of the document is admissible in such case. It follows that, the xerox copies of these documents produced by defendant Nos.1 and 2 with list Exh.20 are admissible as secondary evidence of its originals. In such circumstances, it is necessary to allow the application. Therefore, I pass following order:-

ORDER

1. Application stands allowed.
2. The defendant Nos.1 and 2 are permitted to adduce xerox copies of a notice dated 01.10.2009 issued to plaintiff and a panchnama dated 01.10.2009 with rough map as secondary evidence of its originals.

Date :- 13.11.2025
Place :- Aurangabad.

(Shri. N.H. Tikhe)
Civil Judge Senior Division
(Corporation Court), Aurangabad.

CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same, word to word, as per the original Order.

Name of the Stenographer	:	Vilas Kalyan Chavan , Stenographer-II
Court	:	C.J.S.D.(Corporation Court), Aurangabad
Date	:	13.11.2025
Order signed by the presiding officer on	:	13.11.2025
Order uploaded on	:	13.11.2025