

MHAU130001302015



Spl.C.S.No.1400021/2015
**Shaikh Khaleelullah Shaikh Barkatulla Vs. Municipal Corporation,
Aurangabad,Through its, Commissioner.**

ORDER BELOW EXH.66

Present application is made by the plaintiffs for permission to adduce secondary evidence of the commencement certificate dated 31.05.1996. Read the application and reply of defendant corporation at Exh.67. Heard Ld. Advocates for the rival parties.

2. It is submitted by learned advocate for the plaintiffs that, the plaintiffs have pleaded about issuance of commencement certificate dated 31.05.1993 by defendant Corporation and they have produced its xerox copy. The original thereof is lost and not traceable. The plaintiffs have applied for its certified copy to defendant Corporation. However, the defendant Corporation did not provide it. Therefore, it is necessary to permit plaintiffs to adduce secondary evidence of this document.

3. Ld. Advocate for defendant Corporation argued that the plaintiffs can obtain its certified copy and its xerox copy cannot be admitted in evidence.

4. It is seen that, the fact of issuance of commencement certificate dated 31.05.1993 by defendant Corporation is itself in dispute. This Court has framed an issue below Exh.14 and placed burden upon plaintiffs to prove that they have carried out construction over property mentioned in clause No.1 of the plaint as per commencement certificate dated 31.05.1993. The plaintiffs have stated that the original of this document is lost. Therefore, the plaintiffs are entitled adduce its secondary evidence within the meaning of section 65 of the Evidence Act, 1872 (for short "The Act"). The kinds of secondary evidence of original are laid down section 63 of the Act and which kind of secondary evidence is admissible in a particular case is provided by section 65 of the Act. However, proof and admissibility of a document cannot be decided in this application. Therefore, only permission for adducing secondary evidence of commencement certificate dated 31.05.1993 can be given to plaintiff keeping it open to decide proof and admissibility of the document, which the plaintiffs may tender as secondary evidence, as per proviso appended to Order XVIII Rule 4(1) of CPC. Hence, I pass following order:-

ORDER

1. Application stands allowed.
2. Plaintiffs are permitted to lead secondary evidence of commencement certificate dated 31.05.1993.

Date :- 06.04.2026
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	:	06.04.2026
Order signed by the presiding officer on	:	06.04.2026
Order uploaded on	:	06.04.2026