

MHJN070010432021	<p style="text-align: center;"><b><u>RCS. No. 118/2021</u></b> <b><u>Order Below Exh. 39</u></b> <b>M.Nawaz M.Abbas Vs. M.Taher</b> <b>M.Abbas</b></p>
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The present application has filed by the defendant to lead secondary evidence regarding document filed at Exh.40/1.

2] It is submitted by the defendant that plaintiff and defendant are real brothers. Their father had ancestral property in Gat no.64 situated at village Gondankheda admeasuring area of 1H 8R. He has partitioned said property in favour of plaintiff. He also partitioned property in Gat no.106 admeasuring area of 1H 1R situated at village Jafrabad in favour of defendant. The mutation entry no.80 and 722 has been taken regarding the said respective transactions. The plaintiff wanted to have property in Gat no.106 in exchange of property came to his share. Therefore he repeatedly asked defendant for the same. The mother of plaintiff and defendant asked defendant to give property in Gat no.106 situated at village Jafrabad to plaintiff therefore defendant gave said property to plaintiff in exchange of property in Gat no.64 situated at village Gondankheda.

3] Defendant further submitted that he executed partition deed regarding exchange of above mentioned properties on 02/02/2007 on hundred rupees stamp. As to record their names to the revenue record of the partitioned property the original partition deed has been filed with Tahsildar office. The defendant has filed application to Tahsildar under Right to Information Act on 08/07/2023. However, the Tahsil office informed that the documents are misplaced therefore original partition deed cannot be given to him. The defendant has filed xerox

copy of the said partition deed on record and by this application the defendant is praying to give exhibit number to the xerox copy of the partition deed and read the same in the evidence.

4] The Ld. Advocate for plaintiff has filed his say on the overleaf of application and submitted that the defendant has not called original partition deed from the appropriate office, therefore the application for secondary evidence cannot be allowed.

5] Perused the record of the case. The suit is for perpetual injunction. According to defendant he has entered into partition deed with plaintiff. From the xerox copy on record it appears that it is not a registered document. Therefore it cannot be exhibited in the evidence. Moreover as per report of Tahsildar it is mentioned that the documents upon which the mutation entry no.758 has been recorded are not found in their office. Therefore when the original is not on record xerox copy cannot be exhibited. In result I pass the following order.

**ORDER**

The application at Exh.39 is rejected with cost.

Date - 19/07/2024

(Aparna D. Gade)  
Civil Judge, Junior Division,  
Jafrabad.

**CERTIFICATE**

I affirm that the contents of this PDF file are word to word as per original Order.

Date 19/07/2024

Sd/-xxx  
(Ahemad I.Shaikh)  
Stenographer.