

MHKO050003472013



Order below Exh.176 in Special Civil Suit No.05/2013
(Shreeshailya Synthetic vs. Jaykumar Kajave)

The plaintiff has filed present application under Section 65 of Indian Evidence Act, 1872.

2. According to the plaintiff, on 24/6/2025 additional issue is framed regarding registration of partnership firm. On 22/12/2011 the plaintiff has sent Form-A to the Assistant Registrar of Firms, Pune for registration of partnership firm. The said application was signed by all the parties before Notary Advocate Shri. S. B. Savekar. Thereafter, it has been sent by Regd.A.D. to Assistant Registrar of Firm, Pune. It was received by that office on 30/1/2012. Application dated 22/ 12/2011 is 13 years old and it is in custody of concerned office. When plaintiff enquired about the said application to the concerned office, he got information that, said application has been destroyed. Therefore, he has filed present application to lead secondary evidence regarding the document at Sr.No. 3 along with Exh.175. Hence, he prayed to allow the application.

3. Defendant No.1-C and 5 filed their say at Exh.177. According to them, Registrar of Firm is government office. The plaintiff can obtain copies of Form-A from said office. The document dated 22/12/2011 is in the custody of Notary Advocate Shri. S. B. Savekar. It can be also, easily available to the plaintiff. The application

filed by the plaintiff is not tenable in the eyes of law. Hence, he prayed to reject the application.

4. Perused the application and say. Heard both sides. Perused relevant documents on record.

5. I have gone through the record. It shows that, this is the suit for specific performance of contract. Initially the issues are framed on 8/8/2017. Thereafter in view of order below Exh. 172 additional issue is framed as – “Does plaintiff prove that, plaintiff is Registered Partnership Firm?”. Thereafter, the plaintiff has filed application for production of documents regarding the partnership firm at Exh. 174. After hearing both the sides, the said application is allowed. The documents filed by the plaintiff are now along with the list Exh.175. Among the five documents filed by the plaintiff along with Exh.175, the document at Sr.No.3 is photocopy of the Form-A which is application for registration of firm. Document at Sr. No.1 is certificate of registration, document at Sr.No.2 is certificate issued by Assistant Registrar of Firms of partnership firm register and document No. 4 and 5 are postal receipt and acknowledgment.

6. The dispute between the parties is regarding the document Sr.No.3 of Exh.175. The said document is application for registration of firm. No doubt said document is a photocopy of the original document. It is but obvious that, the said document is in custody of Registrar of Firm. Though, it is considered that, another copy of said document is in custody of advocate Shri. Savekar, it could be photocopy of the said document. The evidence of the

plaintiff in the matter is closed and the matter is for cross-examination of defendant's witness. It is also pertinent to note that, the person whose examination-in-chief affidavit has been filed by defendant is subsequently dead. He was not cross-examine by the plaintiff. It is also pertinent to note that, the document regarding partnership firm is also filed on record by the plaintiff along with Exh.3 at the time of filling of the suit. In such circumstances, the plaintiff can prove the documents along with Exh.175, according to law. In order to decide the matter on merit and to decide the real controversy between the parties, it is necessary to grant permission to lead secondary evidence to the plaintiff. In such circumstances, the application deserves to be allowed. Hence, I pass following order.

ORDER

Application is allowed.

Ichalkaranji.

Date : 11.09.2025.

(G. M. Nadaf)
Civil Judge Senior Division,
Ichalkaranji.