

MHKO050014302019



ORDER BELOW EXH.43 IN
SPECIAL CIVIL SUIT NO.26/2019
(Passed on 20. 10. 2023)

Perused the application. Defendant has failed to file his reply despite of grant of ample opportunity to that effect. Heard learned counsel for the plaintiff. Defendant and his learned counsel are absent though matter is repeatedly called out. Therefore, nothing was argued on behalf of defendant.

02. Learned counsel for plaintiff is seeking to exhibit the documents filed below list of document at Exhibit No.33 on the ground that they are certified copies of the public documents. He also submitted that document filed below list of document at Exhibit No.3 i.e. photocopies of cheque, cheque return memo, notice, acknowledgment and “C” Form shall be exhibited as the original of those documents are produced in criminal cases.

03. Perusal of documents at Sr. Nos.1 to 6 filed below list of document at Exhibit No.33 shows that they are the certified copies of the record of the court. As such, no prejudice would be caused to either party if those documents are exhibited in view of provision of Section 79 of the Indian Evidence Act, 1872.

04. It is significant to note that plaintiff has not laid the basic foundation required for adducing secondary evidence in respect of photocopies of cheque, cheque return memo, notice,

postal receipt, postal acknowledgment and “C” form. As such, those documents cannot be exhibited at this stage.

05. In view of afore-said facts and circumstances of the case, application deserves to be allowed in part. Hence, I pass the following order :

ORDER

- 1) Application at Exhibit No.43 is hereby allowed in part.
- 2) Bench Clerk is hereby directed to mark the appropriate exhibit numbers to the document at Sr. Nos.1 to 6 filed below list of document at Exhibit No.33.
- 3) Cost in cause.

Sd/-

Ichalkaranji
Date :- 20. 10. 2023

(H. A. Wani)
Civil Judge, Sr.Dn., Ichalkaranji