



**ORDER BELOW EXH. 55 IN R.C.S.No.
43/2014.**

Laxmibai Dattu Patil and 2 Vs. Ganpati Kalu Patil and
Ors.

CNR –MHKO130001712014

01. This is the application of the plaintiff filed with request to exhibit to the adoption-deed dtd. 17/08/1953. It is submitted that, plaintiff has filed certified copy of the captioned adoption-deed on record. The predecessor of this Court has permitted plaintiff to lead their secondary evidence u/s. 65 of the Indian Evidence Act. The said document is executed before the Sub-Registrar Office, at Nipani. Therefore, as the document is registered it has presumption in the eyes of law. Resultantly, plaintiff has prayed to exhibit the document.

02. The defendant has given his say on the overleaf of this application. The defendant has specifically submitted that, this document needs to be established on the basis of evidence as per the procedure prescribed. It is submitted that, witness to his allegedly examined by the plaintiff is not attesting witness on the said document. He has admitted that, he do not know -- of the case. Furthermore, it is also submitted that, only because certified copy produced before the Court. There is no provision to exhibit the same. Resultantly, on these grounds the defendant has prayed to reject the application.

03. Heard Advocate Shri. S.S. Kestikar for the plaintiff & Advocate Shri. O. S. Diwan for the defendant.

04. Perusal of the record that, predecessor of this Court

vide their order below Exh. No. 15 has permitted plaintiff to lead the secondary evidence on the adoption-deed. It appears that, in view of that permission witness summons was issued by detailed order passed by predecessor of this Court below Exh. No. 48 to the Sub-Registrar Nipani. In view of that witness has appeared before the Court and deposed accordingly. Indeed, the objection is taken that, original is not before the Court and hence, it can not be exhibited. However, predecessor of this Court vide their order has already permitted to lead their secondary evidence and original is lost. Admittedly, this Court can not prove behind order passed predecessor of this Court. Furthermore, sec. 16 of the Hindu Adoption and the Maintenance Act, 1956. Merely, speaks that clearly provides about the presumption to the alienate adoption. Thus, it appears that by sec. 16 of the captioned act, the adoption-deed in the presumption in the eye of law. It is provided under the same provision that, Court shall presume that, adoption has been made in-compliance of the provision of this fact is unless and until it is dispute. Thus, keeping in mind this provision and the fact that, plaintiff has already permitted to lead secondary evidence and in view of that secondary evidence----- Sub-Registrar Office has examined to prove adoption-deed. The said witness has already deposed before the Court. In support of the adoption-deed and it is give execution. Resultantly, on the basis of these factual aspects and on the provision of 16, I have no hesitation to allow this application. Resultantly, following order is passed:-

ORDER

1. The application (Exh. 55) is allowed.
2. Certified copy of the adoption-deed be exhibited.
3. In the peculiar facts & circumstances there is no

order as to costs.

Kagal.
Date: 28/11/2022.

(A. B. Jawale)
Jt. Civil Judge Jr. Division
Kagal.