

MHKO140004912016



Regular Civil Suit no.37 of 1973

**Dattu Gopal Patil & Ors.
Vs.
Dundappa Subrao Kole & Ors.**

ORDER BELOW EXHIBIT- 311

[Passed on: 21/07/2025]

1. This application is made by plaintiff for permission to lead secondary evidence u/sec.65 of the Indian Evidence Act.
2. The plaintiff submitted that they have filed present suit for recovery of possession. In the present suit they have preferred Civil Appeal bearing No.293/1996 and they have filed all the documents before the Appellate Court in the aforesaid appeal proceeding. All those documents have been destroyed which were kept along with 'C' file in the aforesaid appeal. The documents which are destroyed are important evidence in the present suit. Hence, it is necessary to grant permission to adduce secondary evidence regarding those documents. Hence, it is necessary to allow the application.
3. The ld. advocate for defendant filed say and submitted that the contents of the present application are vague and incomplete. Hence, it is necessary to reject the application with cost.
4. Perused the record. Heard ld. advocate for both side. It is matter of record that the present suit is filed in the year 1973 and in Regular Civil Appeal No.293/1996 this matter is remanded to this Court for trial. The plaintiff on affidavit stated that the documents filed in the aforesaid appeal is destroyed and therefore plaintiff wants to lead secondary evidence. I have perused the order passed by Hon'ble District Court in Regular Appeal No.293/1996 . In the said order Hon'ble District Court also recorded finding in para 23 that the 'C' file along with documents are destroyed. So the contents

of the present application appears to be true. Hence, as per section 60 of the Indian Evidence Act, it would be proper to allow the plaintiff to adduce secondary evidence. At the same time it is necessary to impose cost for causing delay. Accordingly, I pass following order.

ORDER

1. The application is allowed subject to cost of Rs.1000/-.
2. Permission is granted to lead secondary evidence in respect of documents filed along with list Exh.313.
3. Cost is payable to otherside.

Date: 21/07/2025

[Waman D. Jadhav]
Joint Civil Judge Junior Division, Chandgad.
[Judge Code- MH03143]