

ORDER BELOW EXH- 132.

Defendants through this application, prayed to lead secondary evidence in respect of certified copy of sale deed dtd. 14.12.1990 bearing registration no.1395 filed by plaintiff. They further contended that, defendant no.1 in his examination-in-chief explanation regarding non possession of original sale deed. Plaintiff obtain permission of court vide Exh.62 to lead secondary evidence of above sale deed. The same intend to be prove by these defendants to support their defence. Original document not found to them. Hence, prayed to allow their application.

2. Counsel for plaintiff filed say and strongly opposed. He contended that, defendants have filed this application at earlier stage. They have filed this application to harass plaintiff and prolong the suit. Hence, prayed to reject with cost of Rs.5,000/-.

3. Perused application and say. Heard finally counsels for both sides with consent. Plaintiff not denied vide Exh.62 he has obtain permission to lead secondary evidence of above sale deed. On perusing an order passed below Exh.62 it shows that, Ld. Predecessor of this court granted permission to plaintiff to lead secondary evidence of above sale deed. These defendants in their say filed at Exh.57 specifically denied possession of sale deed with them.

4. As per section 64 & 65 of Indian Evidence Act, when the original document has been destroyed or lost or when the party offering evidence of its contents can not for any other reason not arising from his own default or neglect produce it in reasonable time. In such situation

the court may permit party to lead secondary evidence relating to the documents may be given.

5. In present suit, both parties relied over the disputed sale deed for the same plaintiff has already obtain permission to lead secondary evidence. Now suit is pending for defendant's evidence. Therefore, they have every right to prove their case. The above circumstances are justifiable to permit them to lead secondary evidence of disputed sale deed. No prejudice would be caused to the plaintiff, if application allowed. Per contra, if it rejected, it would amounts to denial of fair trial to these defendants. Hence, in result of above discussion I pass following order;

ORDER

1. Application is allowed and defendant are permitted to lead secondary evidence of sale deed dtd. 14.12.1990 as per rule.
2. Parties to take note and proceed further.

Place- Ajara.
Date- 06.03.2026.

(R. P Thore)
J.O.Code No.MH02897
Civil Judge, Junior Division,
Ajara.