

**SPECIAL CIVIL SUIT NO.9/2016**

**ORDER BELOW EXH. 46**

This is an application for secondary evidence. The plaintiff submitted that the defendant no.1 is the Secretary of Anand Nagar Co-operative Bhadekari Malki Grahaniirman Sanstha Maryadit from its foundation. On 12.12.1986 the resolution was passed for the distribution of plots of Anand Nagar Co-operative Bhadekari Malki Grahaniirman Sanstha Maryadit. The original resolution is with Secretary. The plaintiff demanded the original resolution for the production of document before the Court. But, the defendant no.1 submitted that he has not at all concern with this resolution, hence he is unable to provide the same. The original document is not within the custody of plaintiff. The defendant denied the custody of original document. Hence, it is necessary to grant permission to lead secondary evidence to prove the said resolution. Hence, they prayed to allow the application.

2. Defendant filed his say and strongly objected to the same. The defendant submitted prior to this application, Exh.39 was filed to call the record from the defendant no.1. The resolution was not within the custody of defendant and hence the application Exh. 39 was rejected. Defendant further submitted the Anand Nagar Co-operative Bhadekari Malki Grahaniirman Sanstha Maryadit was not registered, therefore the question of its body and Secretary does not arise. The application filed by the plaintiff is against the law. The plaintiff having interest in the Anand Nagar Co-operative Bhadekari Malki Grahaniirman Sanstha Maryadit. The plaintiff is an one man body of said Sanstha. Therefore, all documents are within the custody of plaintiff. The plaintiff is Chairman of so many educational society

having money and muscle power. The plaintiff knowing by filing this application avoid to proceed the suit. Hence, this application liable to be rejected.

3. Perused application alongwith submission of both parties. The order passed below Exh.39, it shows that the resolution dated 12/12/86 was demanded by the plaintiff from the defendant no.1. The defendant no.1 submitted the said resolution is not within his custody. The plaintiff is whole and sole of Anand Nagar Sahakahari Bhadekaru Malki Grahanirman Sanstha. Therefore, the demand of production of original resolution from the defendant no.1 is against the law. The defendant is not the custodian of said resolution.

4. Considering the submission of both parties as above, it shows that the resolution was passed. But, plaintiff and defendants are denied the custody of document. The suit is filed for damages on defamation. The cause of action was also arose from the said Anand Nagar Bhadekaru Malki Grahanirman Sanstha. On the point of distribution of plots, the dispute was arose. But, the record shows that both parties are unable to produce the original resolution before the Court. In such circumstances, it is to be proper for interest of justice to grant permission to lead the secondary evidence. Hence, I find substance in the application.

**:: ORDER ::**

Application is allowed.

Date:29/09/2017. ( Jaydeo Y. Ghule )  
Civil Judge,S.D.Ahmedpur.