

R.C.S No. 232/2011
Laxmikant Vs. Shamsundar

ORDER BELOW EXH. 178
(CNR No. MHLA14-000500-2011)

By this application, the defendant No. 7 and 8 prayed for permission to lead secondary evidence. Perused the contents of application and say filed thereon. Heard learned advocate Shri. B. B. Jetnaware for the defendants/applicants and learned advocate Shri. S. H. Patel for the plaintiff.

02] The applicants submitted that original sale deed bearing Reg. No.1696/1988 and 1697/1988, are destroyed in earthquake. Hence, they want to lead secondary evidence of said sale deed. The learned advocate for the plaintiff submitted that village of the applicants was not affected in said earthquake.

03] This application is supported by the affidavit. Section 65 (c) of the Indian Evidence Act, permitted to give secondary evidence in case/when the original has been destroyed. The reason cited for said 'destroy of original sale deed' is of earthquake, hence it is shown that there is no default on the part of the applicants. Further, it is shown that the reason for not production of original is unavoidable. This case is pending for the evidence of defendants. Hence, for just and proper adjudication of the matter and to avoid the multiplicity of the proceedings, application deserves to be allowed. Suit is almost 12 years old hence it is also necessary to give direction to the applicants to expedite the matter, Accordingly I proceed to pass the following order ;

:: ORDER ::

1. Application (Exh.178) is allowed subject to costs of Rs. 200/- (Rupees Two Hundred Only) and applicants/defendant No. 7 and 8 are permitted to lead secondary evidence in regards to sale-deeds (Reg. Nos. No.1696/1988 and 1697/1988).
2. Parties are directed to expedite the matter.

Dt : 03.02.2023
Ausa

(N. B. Rathod)
2nd Jt.C.J. (Jr. Dn.), Ausa