

R.C.S. No. 37/2014
Chaitnya Vs.. Bashir
Exh.64.

ORDER Below Exh.64.

MHLA15000155-2014

The present suit is filed for Declaration and perpetual injunction with cancellation of sale deed. The plaintiff has moved the present application and prayed to grant permission to lead secondary evidence of sale-deeds.

2. It is contended in application that, father of the plaintiff had purchased land gat no.10/2 adm. 0 H. 58 R village Shelgaon through registered sale deed no. 1069/2006 on 03.05.2006 and the father of plaintiff had also purchased land gat no. 10/1 and, 1 G, 48 R of village Shelgaon through registered sale deed no.1071/2006 on 03.05.2006 at the time of minority of plaintiff at age of 12 years. Plaintiff has filed certified copy of registered sale deed no.1069/2006 and 1071/2006. The original sale deeds are missing and not within the possession of the plaintiff. Plaintiff tried his level best to tress out the original copy at his home, registry office etc, but it is cannot trace out, so it seems to be lost. To prove the case and sale deed, it is necessary to give permission to lead secondary evidence. Hence, plaintiff be permitted to lead secondary evidence in respect of above said sale-deeds.

3. On the other hand, learned advocate for defendant

filed their say below application and stated that, application is false, frivolous. Suit is in respect of cancellation of sale deed no. 260/11 and 261/11 and plaintiff wants to lead secondary evidence in respect of sale deed day book no. 1069/06 and 1071/2006. Plaintiff himself create ambiguity in the matter. Reasons mentioned in the application is imaginary one. So, application be rejected with heavy costs of Rs. 3,000/-.

4. Perused the application and say thereon. Heard learned advocates for both sides. As per the contents in application the alleged sale-deeds are not traced out. Further, the plaintiff has filed on record the certified copies of said sale-deeds. So, as per Section 65 (a) if the original document is lost or destroyed then the secondary evidence of such document can be given. So, in view of the provision contained in Section 65(a) the present application deserves to be allowed. Hence, I proceed to pass the following order.

ORDER

1. The application stands allowed.
2. The plaintiff is permitted to lead secondary evidence of sale-deed bearing No. 1069/2006 and 1071/2006.

Date :- 20/09/2024

(M.S. Luniya)
Jt. C.J.J.D., Chakur

C E R T I F I C A T E

I affirm that the contents of this P.D.F. file order are same word for word as per original order.

Name of Steno	: M.B. Pathan
Court Name	: M.S. Luniya, Jt. C.J.J.D., Chakur
Order Date	: 20/09/2024
Order signed by presiding officer on	: 20/09/2024
Order uploaded on	: 20/09/2024