

RCS. No.15 /2006
Narayan & Ors. Vs. Nanarao & Ors.

ORDER BELOW EXHIBIT 83

1. This is an application filed by the defendant No.1 under section 65 of the Indian Evidence Act 1872 for permission to adduce secondary evidence.
2. It is the contention of the defendant No.1 that the original adoption deed was registered on 07/10/1951. He took search of the original adoption deed. But he could not find it. He has produced on record certified copy of the adoption deed and its translation. In such situation, defendant No.1 is praying for permission to adduce secondary evidence in the form of photocopies.
3. Plaintiffs have resisted the application vide their say at Exh. 85 on the ground that in order to adduce secondary evidence of document loss of original have to be proved. Therefore, when there is no evidence of loss of original, no question of its secondary evidence arises. They prayed for rejection of application.

4. Heard Shri. U. G. Tikore learned Advocate for the defendant No.1 and Shri. S. D. Shahane learned advocate for plaintiffs.

5. Perusal of certified copy of the adoption deed reveals that, it was duly registered. The application is supported by an affidavit containing the statement of defendant No. 1 that, the original adoption is not found despite several efforts. Therefore, at this stage, it can not be said the document is not lost.

6. Thus there appears no fault or neglect on the part of the defendant No.1. Defendant No.1 has made all the attempts possible to it to produce the original document. Therefore, in my view secondary evidence may be given of the existence, condition or contents of a document in a present case for the above said reason which is not arising from default or neglect of defendant No.1 to produce the original in reasonable time. Hence, I pass the following order

ORDER

- i) The application Ex.83 is allowed.

- ii) Permission is granted to the defendant No.1 to adduce secondary evidence of the document as prayed for subject to proof of the same within four corners of the Indian Evidence Act,1872.

Sd/-

Date: 07/10/2014

(V.N.Thakur)
C.J.J.D., Hadgaon.

CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same word to word, as per the original Order.

Name of the Stenographer : Nagappa Gurapadappa Majage

Court Name : J.M.F.C. & C.J.J.D., Court,
Hadgaon.

Date : 07/10/2014

Order signed by the Presiding Officer on : 07/10/2014.

Order uploaded on : 07/10/2014.