

ORDER BELOW EXH.26
(Passed on 09/07/2025)

This application is filed by the plaintiff for permission to lead secondary evidence. Defendant filed say below Exh.27.

2. None appeared on behalf of plaintiff. Heard Adv. Kushwah for the defendant.

3. It is the contention of the plaintiff that the original sale deed is deposited in the bank as the suit property is mortgaged with the bank. The certified copy of the same is filed on record along with List Exh.24/1. In such circumstances, the original sale deed can not be taken on record without delay and it will take much time to brought the original sale deed on record. In such circumstances for proceeding further with the matter, the certified copy of the Sale Deed can be taken on record by permitting the plaintiff to lead secondary evidence.

4. Adv. Shri. Kushwah submitted that the original sale deed is in bank and it can be filed on record by taking the necessary steps. This application is not tenable and he prayed for rejection.

5. The present suit is for ejectment and possession under Section 16(a)(g) of Maharashtra Rent Control Act. It is the case of the plaintiff that defendant is the tenant in the suit property. Defendant filed written statement below Exh.15 and admitted that he is the tenant in the suit property. But came with the different case that plaintiff has executed agreement to sale in his favour. Therefore, he is not the tenant in the suit property. Considering the defence taken by the defendant, defendant is

actually admitting the ownership of the plaintiff by mentioning the fact in the written statement that he has paid total consideration amount of the suit property for purchasing it from the plaintiff and plaintiff was ready to execute sale deed to the defendant. In such circumstances, when the defendant is coming with the case that he has got executed the agreement to sale from the plaintiff, there will be no question of taking into consideration the dispute as regards the ownership of the suit property.

6. Even though, considering the nature of the defence and the issues framed by my Learned Predecessor as the certified copy of the sale deed is already on record, the plaintiff is required to be allowed to lead secondary evidence on the certified copy of the sale deed as the original sale deed is with the bank. The fact of depositing the original sale deed with the bank is not denied by the defendants. On the contrary, there will be no prejudice to the defendants if application is allowed. But it will prejudice to the plaintiffs if it is rejected. Hence, considering these circumstances, I pass following order.

- ORDER -

- 1] The application (Exh.26) is allowed.
- 2] Plaintiff is allowed to lead secondary evidence about the Sale Deed.

Kamptee
Date : 09/07/2025.

(Mohan R. Kamat)
Civil Judge, Junior Division,
Kamptee.