

R.C.S.No.213/2012
Suryakant.vrs. Prakash

ORDER BELOW EXH.72
(Passed on 8th March, 2021)

1] Defendant No.1 Prakash Haribhau Dhage and defendant No.2 Prameya Prakash Dhage filed application for de-exhibiting documents Exh.48, 51, 52, 53, 55, 63, 64, 67. They submitted that chief-examination of plaintiff was taken on 01.01.2021. Their counsel was ill. Therefore, could not remain present. Plaintiff took examination-in-chief in absence of Advocate of defendants and get exhibited above documents. That documents were photocopies, therefore, could not be exhibited. Exh.64 is Medical document. The document issued by person is not examined, therefore, document cannot be exhibited.

2] Plaintiff filed Exh.67. As per Indian Evidence Act, plaintiff cannot issued Certificate 65-B. Hence, document be exhibited.

3] Plaintiff filed say and opposed the application and submitted that that documents are public documents, and therefore, exhibited. The application is filed to delay the matter, hence, liable to be rejected.

4] Heard learned Counsel for both sides. Learned Counsel for plaintiffs relied on Judgment of **the Hon'ble High Court in AIR 2017 Delhi 198, Amarjit Singh .vrs. Surinder Singh Arora and another**. I have gone through the facts of the case, with due respect, Law laid down by the Hon'ble High Court is not applicable to the present facts of the case.

5] The learned counsel relied on another Judgment of **Telangana High Court, dt.19.06.2019, Abdul Rafi Abdul Rawoof .vrs. Venkataiah**. I have gone through the facts of the case, with due respect, law laid down by the Hon'ble High Court is not applicable to the present facts of the case.

6] The learned counsel relied on another Judgment **2018 (1) Civil Law Journal 223, Avani v.rs. Somasundaram and others**. I have gone through the facts of the case, with due respect, Law laid down by the Hon'ble High Court is not applicable to the present facts of the case. In that case, plaintiff filed suit for partition and possession and this suit is for declaration. Hence, Law laid down by the Hon'ble Madras High Court is not applicable here.

7] In this case, though plaintiffs got exhibited photostate copy, right of defendants are not affected. Documents are required to be proved as per Provision of Indian Evidence Act. Other mode of

proof could not be admissible. Admissibility of that documents can be raised at any stage of the suit even before the Appellate Court. There is no provision under Code of Civil Procedure to de-exhibit the documents. Therefore, I am of view that application is not tenable. Hence, I pass following order :-

ORDER

Application is rejected.

Umrer.

Dt.08/03/2021