

MHSN110002162022 	ORDER BELOW EXHIBIT 66 R.C.S. NO. 34/2022 (Manojkumar Gaikwad Vs. Bhimrao Gaikwad)
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1. The present Application is filed by the plaintiff to lead Secondary Evidence in regard of Registered Sale Deed dated 19/11/1986.

2. It is the contention of plaintiff that, the suit is filed for partition, possession and injunction. Defendant no. 1 have executed the sale deed dated 19/11/1986 in favour of defendant no. 2 as a minor guardian. Plaintiff filed the certified copy of said sale deed at exhibit 315. Plaintiff further contended that, he couldn't find the original sale deed even after search. Plaintiff have produced certified copy of sale deed dated 19/11/1986 in the present matter and prayed to allow secondary evidence to the said sale deed. Hence, prayed to allow the application.

3. The defendant no. 5 have filed his say and W.S. below Exh.68 and resisted the application. It is contended that, suit is filed for partition, possession and injunction. There is no documentary evidence filed on record by plaintiff regarding missing of the sale deed. The application is not as per legal format. Plaintiff is intentionally is not bringing the primary evidence before Court. Plaintiff is not come with clean hands.

Hence, prayed to reject the application.

4. Heard both the Advocates. Perused the pleadings and documents on record.

5. On perusal of record it can be seen that, the plaintiff has filed certified copy of sale deed dated 19/11/1986. Section 65 C of Indian Evidence Act prescribes – when the original has been destroyed or lost or when a party offering an evidence of its contents cannot, for any other reasons not arising from his own default or neglect, produce it in reasonable time, secondary evidence in regard of the contents of document is admissible.

6. Section 63(1) of Indian Evidence Act provides secondary evidence means and includes Certified Copies given under the provisions here in after contended. So considering the factual and legal aspects in the present matter, the plaintiffs have proved the material ingredients to lead secondary evidence as prescribed in the law. The document being old one probability of misplacing the same at the hands of plaintiff cannot be ruled out.

6. Considering these fact and circumstances, it would be just and proper to allow the application. Hence, I pass the following Order.

:: ORDER ::

1. The application vide Exh.66 is allowed.
2. The plaintiff is permitted to lead secondary evidence of the Certified Copy of registered Sale Deed dated 19/11/1986.
3. Cost in Cause.

Date: 26/03/2025.

(R.B. Kulkarni)
Jt. Civil Judge Jr. Dn., Atpadi.