

CNR NO.MHSO060020502017



R.C.S. No. 112/2017

Yogita Bhosale

V/s.

Ramchandra Bhosale & Ors.

Order below Exh. 101
(Delivered on 16th June 2025)

This application is filed by plaintiff to lead secondary evidence on the grounds that defendants have denied the relation. Husband of plaintiff namely Nilesh @ Satish is died. After his death she has filed this suit for partition and separate possession.

02. Defendants have denied that negatives of photographs which were taken at the time of marriage of plaintiff and Nilesh are in their possession when the application below Exh.60 was filed. Plaintiff has filed 2 photographs of her marriage at Exh.63. As she is not having negatives of the photographs therefore she sought permission to lead secondary evidence.

03. At Exh.103 defendants have filed their say and opposed the application on the grounds that they have denied the relation of the plaintiff. Not only this they have denied marriage of plaintiff with deceased Nilesh. Application filed by plaintiff is not tenable as per the provisions of the Evidence Act. Already this court has rejected application below Exh.60 therefore this application is not tenable. At the end defendants has prayed to reject the application.

04. Heard both the learned advocate for plaintiff and defendants. Perused record. At Exh.60 plaintiff has filed application to produce the negatives of photographs of her marriage. In short that was notice for production. Defendants have denied the possession of negative. Therefore, that application was rejected. But rejection of that application will not be adversely affected on this application. Nature of that application and present application is quite different. Exh.60 was notice to produce, if at all defendants in reply of that notice produced the negatives then this application may not be filed by the plaintiff. As such, application below Exh.60 was filed to curtail further delay in proceeding. As the original negatives are neither in possession of plaintiff nor in possession of defendants.

05. In such circumstances, plaintiff is entitled to lead secondary evidence. If at all considering objections of defendants permission to lead secondary evidence is denied to plaintiff then she will not get any opportunity to prove her case. As this being fact finding court opportunity needs to be given to the plaintiff to prove her case by leading clinching evidence. As such, the application filed by plaintiff to lead secondary evidence deserves to be allowed. Therefore, I pass following order.

ORDER

- 1) Application is allowed.

Date :- 16/06/2025.
Place :- Pandharpur.

(M. B. Kulkarni)
2nd Jt. Civil Judge, Senior Division
Pandharpur

CERTIFICATE

I, affirm that the contents of this PDF file Order/Judgment are same word to word, as per the original order/Judgment.

Name of Employee	:	Shirsikar V. G., Stenographer
Court	:	Jt. C.J.S.D. Pandharpur
Date	:	16.06.2025
Judgment/order signed by the Presiding Officer on	:	16.06.2025
Judgment/Order uploaded on	:	16.06.2025
