

ORDER BELOW EXH.34

1. This is an application moved by the plaintiff u/s. 65 (a) of the Indian Evidence Act, 1872.

2. The present suit is filed by plaintiffs against defendants for declaration, possession and injunction and it is pending for the evidence of plaintiff. It is submitted on behalf of the plaintiff that notice issued to defendants No. 4 and 5 to produce sale deeds which is in the custody of them. This sale deed was registered in the sub-registrar office, Barshi Dist. Solapur. The original sale deed is in the possession of the defendant No. 4 and 5. Therefore the defendant No. 4 and 5 could not produce original document i.e. sale deeds in the Court. Therefore the plaintiff prayed to allow her to lead secondary evidence of the said sale deed.

3. The defendants No. 1 and 2 filed their say thereon. In the say that, they stated that, the application is not tenable. Further he submitted that, the certified copies of proposed documents is not filed on record. Hence, he prayed to reject the application.

4. Perused application and say. Heard Ld. Advocate for the plaintiff and defendant No. 2 and 3.

5. Here, it is necessary to taken into consideration that, in the recent judgment of Hon'ble Bombay High Court, *Kartik Gangadhar Bhat Vs. Nirmala Namdeo Wagh* W.P No.11151/2017 dtd. 3/11/2017, it has held that there is no need to file the application to produce secondary evidence. As per the ratio laid down in the above judgment, it is not necessary to consider the admissibility and relevancy of the said document at this stage. In view of this judgment it is not necessary to file application for

production of secondary evidence. Hence, I proceed to pass the following order:

**ORDER**

- 1) Application (Exh.34) is disposed as filed on record.
- 2) The plaintiff shall take necessary steps to prove the content of said document and to entitle her for the production of secondary evidence in view of section 65 of the Indian Evidence Act.

**Date:** 11/12/2023

sd/-  
(Smt. H.U.U. Patil)  
4<sup>th</sup> Jt.Civil Judge, J.D. Barshi.

**RCS No. 243/2021**  
**Rajashree Vs. Smt. Girjabai & Anr.**

**CERTIFICATE**

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

(a)	Name of the Stenographer	:	S.V. Kokate (Grade III)
(b)	Court	:	Smt. H.U.U. Patil, 4 <sup>th</sup> Jt. Civil Judge, J.D.& J.M.F.C.Barshi
(c)	Judgment /Order signed by P.O. on	:	11/12/2023
(d)	Judgment /Order uploaded on	:	13/12/2023

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Rajashree Vs. Smt. Girjabai & Anr.