Order below Exh. 47 in M.A.C.P. no. 330 of 2016

1. This application has been fled by the petitioners thereby objecting the exhibition of two insurance policies filed by respondent no.2

2. It is the contention of the petitioners that vide document list at Exh.41 respondent no.2 has filed two insurance policies at sr. no. 2 and 3. Respondent no.2 has examined 2 witness to prove the same, but the documents cannot be exhibited as they are not admissible in evidence. The petitioners are objected the exhibiting of those documents on the grounds that the documents are the computerized printouts. Hence, they are secondary evidence. Secondary evidence can not be proved without being compared with the original documents. If the cross-examination of the witness perused it can be seen that, the office copy of the documents is with respondent no.2 in its office, then also the same has not been produced to compare the same with the computerized printouts. The documents are copy of copies and certificate as per Section 65B of the Indian Evidence Act has not been attached to these documents. So these documents cannot be read in evidence as they are in admissible. In support of this contention he has relied upon the following case law:-

i) **United India Insurance Co. Ltd. V/s Sunita Sanjay Gujar and Ors 2017 ACJ 1196 and**

ii) **Badrunnisa Begum V/s Mohammoda Begum AIR 2001 ANDHRA PRADESH 394**

3. Respondent no. 2 has objected the application vide say at Exh.48. It is the contention of respondent no. 2 that the objection taken by the petitioner is false. The original copy of insurance policy is given to the policy holder and so only copy of the policy is in possession of the insurance company. The policy holder has not come before court and so secondary evidence is led by respondent no.2. Which ever copy is available with respondent no.2 has been filed on record. The insurance policy document filed by the petitioners has been take on record only on oral evidence of the petitioners. Hence, the insurance policy filed on record by respondent no.2 be taken on record as the same are proved by witness of respondent no. 2. The objection of the petitioner that certificate as per Section 65B of the Indian Evidence Act is not attached and so documents are not admissible is false because respondent no. 2 has led oral evidence and contended that insurance policy filed by the respondent no.2 are true copy of the original. When no oral evidence is led to proved the document then only certificate as per Section 65B of the Indian Evidence Act is necessary. This petition is an accident claim petition and beneficial legislation so strict rules of Indian Evidence Act are not applicable to the petition. Hence, the documents be exhibited.

4. Heard Ld. Advocates for all the parties. They have argued as per their respective contentions.

5. Perusing the rival contention and documents filed on record it can be seen that the respondent no.2 has examined Prakash Dattatray Vedpathak as witness no. 2 for respondent

no.2. He states that the policy bearing the signature of branch manager Mr. Paranjape. He has himself taken out the copy of the policy from the computer system. Its contents are correct.

6. In his cross-examination this witness has admitted that the copy of insurance policy is a computerized printout. He has admitted that there is no certificate as per Section 65B of the Indian Evidence Act filed along with two insurance policies. He has further admitted that the fact that he has taken out copy of insurance policy from the system is wrongly mentioned in his affidavit of examination-in-chief. He has further admitted that he has not seen the office copy of the insurance policy the copies of which are filed by respondent no. 2 on record.

7. Perusing the documents it can be seen that respondent no.2 has filed two insurance policies of the same date. Both the policies appear to be same but the duration of the of the policies appears to be changed. Perusing this document it can be seen that there is no certificate as per Section 65B of the Indian Evidence Act filed along with this policies.

8. Now, it would be proper to referred to case law that have been relied upon by the petitioners:-

1)In **Badrunnisa Begum V/s Mohammoda Begum:-** in this cited case ratio given by the Honourable High Court Andra Pradesh is that Section 65a of the Indian Evidence Act does not in any way make a copy of copy admissible in evidence as it is bared by Section 63 of Indian Evidence Act.

2)In **United India Insurance Co. Ltd. V/s Sunita Sanjay**

Gujar & Ors. :- the fact of the case are referring motor accident claim petition. In this case the Honourable High Court Bombay after discussing the ratio given by the Honourable Supreme Court in Anvar P.V. Vs P.K. Bansheer[2014] 10 SCC 773 has given the ratio that:-

> *(a) There must be a certificate which identifies the electronic record containing the statement:*
>
> *(b) The certificate must describe the manner in which the electronic record was produced:*
>
> *(c) The certificate must furnish the particulars of the device involved in the production of that record:*
>
> *(d) The certificate must be deal with the applicable condition mentioned under section 65-B(2) of the Evidence Act; and*
>
> *(e) The certificate must be signed by a person occupying a responsible official position in relation to the operation of the relevant device.*
>
> *Since the requirements of section 65-B (2) and (4) have not been satisfied in the instant case, the computer printout of the insurance policy was inadmissible in evidence and, therefore, the case of the insurance company that the risk was not covered at the*

time when the accident took place cannot be accepted.

9. The ratio of the cited case is exactly applicable to the facts of the present case because this ratio was given Honourable High Court in Motor Accident Claim Petition and also regarding 65-B certificate to be attached along with insurance policy. The Honourable High Court has clearly stated that the certificate as per 65-B of the Indian Evidence Act is required to make the documents admissible as the insurance policy is computerized printout. The contention of the Ld Advocate for the respondent no.2 that this the beneficial and legislative and so strict rules of Indian Evidence Act are no applicable is not accepted because all the ratios given by the Honorable High Court in a above cited case. The evidence of Prakash Vedpathak shows that office copy of the original insurance policy are available at the office. Then one fails to understand why the same has not been produced on record. Prakash RW no.2 himself has denied that he has taken out the computerized printout himself there is no certificate as per Section 65-B of the Indian Evidence Act attached to the policy and moreover contents as per Section 65-B certificate have been not be stated by any of the witness of respondent no. 2. So the contention of the Ld. Advocate for the respondent no. 2 that if, oral evidence is given then certificate under Section 65-B of the Indian Evidence Act is not required as not accepted. For all the above reasons it is held that as rightly contended by Ld.

Advocate for the petitioners these 2 policies cannot be accepted. So the application deserves to be allowed. Hence, I pass following order.

O R D E R

1. Application is allowed.
2. The two insurance polices filed on record by respondent no. 2 are inadmissible in evidence hence not accepted.
3. Costs in cause.

Satara. (P.P. Abhang),
Date 16-02-2022 Ad-hoc District Judge 01, Satara.