

Parubai Pilaji Chavan and ors.	--	Plaintiffs
Vs.		
Sopan Pilaji Khandagle and ors.	---	Defendants

The present application is filed by the plaintiff for exhibiting the documents submitted along with the application at Exh. 29. The defendants have filed their say at Exh. 74 and have opposed the application. The application and the say have been perused. Arguments of the learned Advocate for the plaintiff were heard. The defendant has failed to advance arguments in spite of sufficient opportunity. Hence, the application proceeded without the arguments of the defendant.

2. The plaintiff stated that the document dated 04/05/1945 is the original gift deed. It is more than 30 years old. So also, the certified copy of the sale deed dated 18/06/1971 is also produced and requires to be given exhibit numbers.

3. On the other hand, the defendants contended that they have denied both documents in their written statement. They submitted that the Court has discretionary power to give exhibit numbers only after examining the necessity and verifying the credentials of the documents. The evidence of the plaintiff is already completed. The plaintiff has now filed the present application for exhibiting the documents. Therefore, the application deserves to be rejected.

4. I have gone through the record. The document at Exh. 31/1 is the original registered gift deed dated 04/05/1945. It is more than 30 years old. The plaintiff has deposed through affidavit in lieu of

examination-in-chief, in which he has referred to the said gift deed and stated that both parties to the deed are dead and moreover, the attesting witnesses are also not alive.

5. Therefore, it appears that the document is nearly 80 years old and no party or witness is available to depose regarding its contents. However, as per Section 90 of the Indian Evidence Act, 1872, *where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that person's handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.*

6. In this matter, the plaintiff's predecessors were parties to the document. Therefore, it is produced from proper custody. Moreover, the document is a registered document, which gives it greater authenticity than an unregistered document. Hence, the presumption under Section 90 is applicable, and the document can be exhibited and read in evidence. Furthermore, during cross-examination, the defendant has asked questions regarding the contents of the gift deed. Therefore, the execution of the gift deed stands admitted by the defendant.

7. With respect to the sale deed dated 18/06/1971, the plaintiff has produced a certified copy of the said sale deed. The plaintiff has alleged that the original sale deed is in the possession of the defendants. As per Section 66 of the Indian Evidence Act, when a document is in the possession of the adverse party, a notice under

Section 66 is required to be given for production of the said document. However, the Court may dispense with such notice if, from the nature of the case, the adverse party must be aware that they will be required to produce it. In this case, no such notice has been issued by the plaintiff. Nevertheless, as per the contentions in the written statement at Exh. 12, the defendants have stated that they have purchased the property by the sale deed dated 18/06/1971. Therefore, it can be inferred that the adverse party is aware of the requirement to produce the document. Hence, the requirement of notice for production is dispensed with. Accordingly, under Section 65 of the Indian Evidence Act, 1872, secondary evidence of the said document is admissible. In view of the above discussion, the application is liable to be allowed. Hence, I proceed to pass the following order:

ORDER

- 1 The application (Exh. 73) is allowed in following terms.
- 2 The document at **Exh. 31/1** is given exhibit number **Exh. 75** and shall be read in evidence.
- 3 The document at **Exh. 31/2** is given exhibit number **Exh. 76** and shall be read in evidence.
- 4 Costs in main cause.

Place :- Karad.
Date :- 11/12/2025.

(Smt. A.V. Mohite)
3rd Jt. Civil Judge (Jr. Div.), Karad.
Tal. Karad, Dist. Satara.