

S.C.C. No.534/2013
(Shamrao Karne Vs. Ganesh
Harchunde)

Order Below Exh.97
(Passed on 04.11.2025)

This is an application filed by the complainant for leading secondary evidence in respect of the agreement dated 20.12.2011. He contended that he has filed present complaint under the provisions of Section 138 of the Negotiable Instrument Act. There was a notarized agreement in between the complainant and the accused in respect of C.S.No.2369 and the construction thereupon. However, the original copy of said agreement has been misplaced by him. Even after his honest efforts to search it out, he could not get it. Said agreement is an important piece of evidence. He has already filed its copy on record and therefore, he be permitted to lead secondary evidence in respect of that agreement.

2. Said application has been resisted by the accused by filing his say at Exh.99. He denied the execution of any agreement on 20.12.2011. He also denied remaining contents in the application. He specifically emphasized on the long standing silence on the part of complainant in respect of said agreement. For all these reasons, he prayed to reject the application.

3. Perused the application and say along with entire record. It is a matter of record that the present case is part heard. The complainant has filed his evidence of affidavit at Exh.27. Even, the complainant has been thoroughly cross examined by the accused.

4. The complaint at Exh.1 speaks about the alleged agreement dated 20.12.2011 in between the complainant and the accused. It also

appears that there is a dispute between the parties in respect of the transaction of construction over City Survey No.2369. Importantly, the copy of alleged agreement is filed on record. Needless to say that, its admissibility has to be determined on the touchstone of the settled legal prepositions. Considering its nature, on bare perusal of said copy of the agreement, it was witnessed by couple of the witnesses. They are further supposed to be examined by the complainant. It is also a matter of record that complainant has filed an application at Exh.68 for issuance of witness summons to the witness namely Shekhar Hanmant Pharande, which came to be allowed.

5. Under such circumstances, and in view of the above discussion, I find it necessary to allow the application by permitting the complainant to lead secondary evidence in respect of the alleged agreement, the copy of which is already filed on record. Resultantly, the application deserves to be allowed. Hence the order;

ORDER

1. The application (Exh.97) is hereby allowed.
2. The complainant is hereby permitted to lead secondary evidence in respect of the copy of the alleged agreement.

Dictated and pronounced in the open Court.

Place : Wai
Date : 04.11.2025.

(R.M. Bhende)
2nd Jt. Civil Judge Junior Division,
Wai, Dist. Satara.

CERTIFICATE

“ I certify that this Order uploaded is a true and correct copy of original signed Order”.

Order dictated on : 04.11.2025

Order checked and signed on : 04.11.2025

Uploaded by : Sunita C. Redekar
Stenographer (Grade-III)

Uploaded on : 07.11.2025