

Spl. Civil Suit No.24 of 2014  
Sachin Vs. Jayashri & Ors.

**Order Below Exh.56**  
(Passed on 29.11.2023)

This is an application submitted by the plaintiff to seek permission to lead secondary evidence of the document of the sale-deed bearing No.1744/2014 dated 31.05.2014, by producing the certified copy of it.

2. It is submitted in the application that plaintiff has filed suit for recovery of earnest amount alongwith interest from defendant as they failed to perform their part of contract. Subsequent to the agreement of sale, defendant had executed a registered sale-deed bearing No.1744/2014 dated 31.05.2014 in favour of Dr. Satish Chiddarwar and Dr. Virendra Papalkar and sold out the suit-property to them. As the present suit is for recover of earnest amount, the said document is relevant to decide the controversy between the parties. The original document of register sale-deed is in possession of the purchaser. As such, plaintiff could not produce the said document on record. The certified copy of the said document is produced on record by the plaintiff. As such, it is necessary to grant permission to the plaintiff to lead the secondary evidence of the said registered sale-deed by producing the certified copy of it. With the said submission plaintiff has prayed to allow the application.

3. The application did not oppose by the defendants by submitting their reply to the application. As such application proceeded without reply of defendants.

4. Read the contents of application went through the rival pleadings of the parties it transpires that the execution of the sale-deed in favour of Dr. Chiddarwar and Papalkar not disputed by defendants. The said sale-deed is not disputed, however, the said sale-deed is required to be referred for collateral purpose to decide the facts of willingness to make performance of the contract.

5. Further it is not disputed that the original sale-deed is in possession of the purchaser. Purchasers are not parties to the present suit. Therefore, they cannot be compelled to produce the original registered sale-deed in the Court. As such, plaintiff is not in position to produce the original sale-deed in the Court. For the said circumstances, I find that the requirements of section 65 are complied with by the plaintiff. As such, it is necessary to grant him permission to lead secondary evidence of the registered sale-deed bearing No.1744/2014 dated 31.05.2014 by producing the certified copy of it. Hence, I proceed to pass following order.

### **ORDER**

1. The application is hereby allowed.
2. Plaintiff is hereby permitted to lead secondary evidence of the registered sale-deed bearing No.1744/2014 dated 31.05.2014 by producing the certified copy of it. The certified copy of the sale-deed, if already have been produced on record, then it be exhibited.

Sd/-

Place:- Pused  
Date :- 29.11.2023

**( S. N. Naik )**  
Jt. Civil Judge (Sr. Dn.)  
*Pused, Dist.Yavatmal*

As per directions of P.O. dated 21/12/2019 :-

Date of dictation of order : 29.11.2023

Date of transcription of order by stenographer :29.11.2023

Date of checking of order by P.O. :29.11.2023

Date of signature of P.O. on order : 29.11.2023

Date of order uploading : 29.11.2023

I affirm that contents of this PDF file **order** are same, word by word, as per original **order**.

Name of Stenographer : Ku.K.P.Sengar

Designation : Stenographer Grade-II