

Order Below Exh. 82

01. The present application has been filed for leading secondary evidence on behalf of plaintiff. The say of defendant was called for accordingly. Ld. Advocate for defendant No. 1 has filed his say on application itself. The other defendants have not filed their say. Hence, application proceeded without say of other defendants.

02. The plaintiff has submitted that he has filed the suit for possession and declaration of the suit-property against the defendants. The original sale-deed dated 15.03.1980 is in possession of the defendants. The plaintiff has placed on record notice to defendants in order to produce the original document as per Section 66 of Indian Evidence Act. Defendants failed to produce the original document. In such circumstances, he is left with no choice than to seek permission for leading secondary evidence in respect of sale-deed. To the contrary, the Ld. Advocate for defendants has contended that the original copy of the sale-deed dated 15.03.1980 is not in his custody and is in custody of plaintiff itself hence, application be rejected.

03. Heard. Perused the record. It appears that the plaintiff has filed the certified copy of sale-deed dated 15.03.1980 along with Exh. 04. The record shows that the plaintiff has placed on record the notice Exh. 80 given to the defendants in order to produce the original copy of sale-deed. To which the defendant No. 1 has given reply Exh. 81 that the document is not in his custody. The defendants have denied the fact that they are in possession of the original document of sale-deed and shows the inability to produce the same. It appears that both the plaintiff and defendants are denying the custody of the document.

04. In view of the reasons mentioned in the application, if the present application for leading secondary evidence is allowed no injustice would be caused to the defendants. On the contrary, if I, disallow the

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application then ultimately the injustice would be caused to the plaintiff. Therefore, I found substance in the application. Hence, I pass the following order.

ORDER

01. Application is allowed.
02. The plaintiff is permitted to lead secondary evidence of sale-deed dated 15.03.1980.

Date : 10/04/2023

(P.S.Patil)
Civil Judge (Jr. Dn.),
Umarkhed

CERTIFICATE

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

Order directly : 10/04/2023
dictated on

Order checked :
and signed on 10/04/2023

Uploaded by : Y.V.Porkute, Stenographer (Grade-III)

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