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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3769 OF 2018.

Preet Nagar Co-op Hsg Soc Ltd.	...	Petitioner
V/s.		
Gurmeet Singh Gharjit Singh		
Sehgal and 4 others	...	Respondents

Mr. Shailendra S. Kanetkar, for the Petitioner.
Mr. N. R. Bubna, for the Respondents.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 28th MARCH, 2018.

P.C. :

- 1] Heard learned counsel for the petitioner and respondents.
- 2] By this petition filed under Article 227 of the Constitution of India, the petitioner is challenging the order dated 16.11.2017, passed by Civil Judge Senior Division, Pune, below the application Exh.189 in Special Civil Suit No.1732 of 2010.
- 3] The application at Exh.189 was filed by the respondents herein, who are the original plaintiffs before the trial Court, under Section 65 of the Evidence Act for permission to lead the secondary evidence as to contents of the document. It was submitted that the true copies of sets of documents marked as Article "F" to "M", are obtained by the respondents from the office of Deputy Registrar, Co-

operative Societies and these documents are filed at the list Exh.74. Affidavit is also filed at Exh.72 submitting these documents being relevant for the respondents, earlier also respondents had sought issuance of witness summons by filing application at Exh.178 to the Deputy Registrar, Co-operative Societies to produce the original record. The said application, however, was rejected and hence it was urged that now the plaintiff-respondents may be permitted to produce these documents as secondary evidence.

4] The petitioner, herein has strongly resisted the said application by submitting that the documents which respondents have produced on record are not the certified copies, but they are only true copies. They are not the authenticated copies. It is also not stated from whom respondents have obtained these documents.

5] The trial Court was, after considering the submissions advanced at Bar by learned counsel for both the parties, pleased to allow this application considering that the application moved by the respondent for calling the original record has been rejected, as it was pointed out by the petitioner that Deputy Registrar Co-operative Societies, Pune City had intimated as to the non availability of any record of "Preetnagar Housing Society" in RCC No.403888/2011, the Criminal Case between the parties. The trial Court, therefore held that as the original record of the said documents is not coming before

the Court, it was necessary for the respondent to rely upon the secondary evidence.

6] In my considered opinion, though learned counsel for the petitioner has vehemently challenged the impugned order of the trial Court, having regard to the facts which are discussed above, as the original documents are not available and set of documents which respondents have produced, bear stamp and signature of the Deputy Registrar, Co-operative Societies, then the set of documents can definitely be permitted to be produced as secondary evidence.

7] What will be the probative value of the said documents and whether on the basis of those documents, respondents will be able to prove their case or not, are all the issues which are required to be kept open. At this stage, it would not be proper to interfere in the impugned order of the trial Court, allowing production of these document. The trial Court may consider its probative value, its relevancy or admissibility at the appropriate stage.

8] In view thereof, writ petition holds no merit, hence stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]