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A.No.4039 of 2021

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in
C.S.No.280 of 2019
(Comm.Suits)

N.ANAND VENKATESH, J.,

This application has been filed by the applicant/plaintiff for permission to mark the photo copy of the agreements of assignment numbering 7 as secondary evidence.

2. The applicant/plaintiff is totally relying upon nine documents and insofar as assignment that was given in favour of the applicant/plaintiff, the original document has been filed. This document was also compared and copy of the same was marked. The applicant/plaintiff is relying upon seven other documents which are the agreements of assignment executed in favour of some of the defendants. All the defendants have been set ex-parte except the 9th defendant who is contesting the suit. According to the applicant, the original document of assignment is with the other defendants and the applicant was not able to get the same. Hence the applicant is seeking to mark secondary evidence of the documents pertaining to the seven agreements of assignment.

3. Heard Ms.R.Archana, learned counsel for applicant and Mr.K.Harishankar, learned counsel for 9th respondent.



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4. In the considered view of this Court, the applicant has given a valid reason for not being able to produce the original agreements of assignment. The fact remains that the agreements of assignment given in favour of the applicant, has been filed in original and the same was verified and the copy was marked. Therefore, no prejudice will be caused if the application is allowed for marking the secondary evidence of seven documents which are listed in this application. It goes without saying that these documents will be marked subject to the relevancy, admissibility and proof. The tenability of these documents can always be raised by the 9th respondent while arguing the suit.

5. In the result, this application is allowed.

17.11.2021

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