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A.No.4699 of 2022

A.No.4699 of 2022
in
C.S.No.975 of 2010

C.SARAVANAN, J.

The application has been filed by the applicant/plaintiff to mark the photo copy of the Censor Certificate dated 17.09.2008.

2. It is the specific case of the applicant/plaintiff that the Censor Certificate was issued to the applicant/plaintiff, however, it was misplaced and was untraceable. While witness was being examined and an objection has been raised by the respondents/defendants, hence, this application has been filed to permit the applicant/plaintiff to mark the photo copy of the Censor Certificate dated 17.09.2008, as Exhibit No.P4, as a secondary evidence in terms of Section 63 of the Indian Evidence Act, 1872.

3. The application is opposed by the third respondent/defendant on the ground that it is for the applicant/plaintiff to prove that the alleged photo copy was prepared from the original or that it was compared with the original or prepared from a copy compared with the original.



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4. It is submitted that in absence of any material to substantiate the above, the photo copy of the Censor Certificate cannot be allowed to be marked as a secondary evidence. It is submitted that it is not sufficient to merely state that the photo copy that was taken was from the original Censor Certificate.

5. I have perused the arguments advanced by the learned counsel for the applicant/plaintiff and the learned counsel for the third respondent/defendant. Other respondents/defendants have already set *ex-parte*.

6. Ordinarily under Section 61 of the Indian Evidence Act, 1872, contents of documents are required to be proved either by primary or by secondary evidence. Primary evidence means, the document itself produced for inspection of the Court.

7. Under Section 63 of the Indian Evidence Act, 1872, a secondary evidence means:



- (1)certified copies given under the provisions hereinafter contained;
- (2)copies made from the original by mechanical processes which in themselves ensure the accuracy of the copy, and copies compared with such copies;
- (3)copies made from or compared with the original;
- (4)counterparts of documents as against the parties who did not execute them;
- (5)oral accounts of the contents of a document given by some person who has himself seen it.

8. A reading of Section 63, makes it clear that copies made from the original by mechanical process which in themselves ensure the accuracy of the copy, and copies compared with such copies can be allowed to be marked as a secondary evidence.

9. The Censor Certificate in question has been issued to the applicant/plaintiff which appears to have been misplaced. The very photo copy from the copying machine requires no comparison with the original in these modern days.



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10. Be that as it may, the document is allowed to be marked as a secondary evidence. However, the applicant/plaintiff shall obtain certified copy of the original from the Censor Board and produce before the Court at the time of final hearing.

11. Subject to the above, the document is allowed to mark. Accordingly, the application stands allowed.

19.12.2022
(1/2)

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