



WEB COPY



A.No.1419 of 2023 and

A.No.1551 of 2022 in

C.S.No.38 of 2021

R.N.MANJULA,J.

This Application has been filed seeking permission to produce the copy of the Chitta as Document No.1 along with the applicant's affidavit of evidence and mark the same as secondary evidence.

2. The suit is filed for recovery of money. The defendants are the legal heirs of one Belman Ramachandra Achar who is alleged to have borrowed some amount from the plaintiff. The said Belman Ramachandra Achar is no more now. His legal heirs are impleaded as defendants. The Chitta is said to be maintained by Belman Ramachandra Achar and the plaintiff has filed this application by stating that the original Chitta is lost and its copy can be allowed to be marked as secondary evidence.

3. The learned counsel for the respondents/defendants submitted that the defendants are the legal heirs of the original borrower Belman Ramachandra Achar and the Chitta is said to be maintained by him; the production of xerox copy is not admissible and even if the original copy is available, that cannot be marked through the plaintiff who is not the author of the said document.

4. The learned counsel for the applicant / plaintiff submitted that



originally the Chitta is with the defendants and they are not producing the same.

5. It has been stoutly denied by the respondents / defendants by stating that even according to the plaintiff's own averments, the said Chitta is maintained through the Cashier. There is no occasion for the defendants to have the custody of the alleged document.

6. It can be presumed that the original copy of Chitta is with the defendants and they do not have the inclination to produce the same. But the defendants have totally denied the possession of the said document. Even according to the plaintiff, the Chitta is maintained by the original borrower himself and hence, it cannot be contented that the original copy is not with the defendants. In the given circumstances, I feel without prejudice to the contention of the defendants with regard to the possession of the above document, this application can be allowed. However, the burden is on the plaintiff to prove the relevancy and the acceptability of the Chitta during the process of the trial.

7. Accordingly, this application is allowed. The matter is ordered to be listed before the learned Additional Master - III on 01.08.2023. The parties are directed to appear before the learned Master on the above said date.

24.07.2023

gsk