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A.No.5878 of 2022

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in
C.S.No.256 of 2019

SENTHILKUMAR RAMAMOORTHY, J.

In a suit seeking to recover monies allegedly paid by the plaintiff to defendants 1 to 4 through the 5th defendant towards redeeming a mortgage created by defendants 1 to 4, the applicant/plaintiff has presented this application for permission to rely upon secondary evidence.

2. The applicant states that the 5th defendant handed over photocopies of the documents proposed to be exhibited by way of secondary evidence. Since the applicant is not in possession or custody of the originals, the present application is filed.

3. Learned counsel for the 6th defendant opposes this application on the ground that certified copies of these documents may be applied for and obtained. The 7th to 9th defendants, who are the legal heirs of the 5th defendant, oppose this application on the ground that they are unaware as to whether the applicant has the originals or not.



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4. In view of the categorical assertions by the applicant that he is not in possession or custody of the originals and that photocopies were provided by the 5th defendant, this application is liable to be allowed.

5. Accordingly, this application is allowed and the applicant is permitted to exhibit photocopies of the documents listed in the schedule to the Judge's summons subject to objections by the defendants on the grounds of relevance and proof.

11.01.2023

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