

Principles of Admissibility of Secondary Evidence: Case Summary of Tharammel Peethambaran v. T. Ushakrishnan

Sl. No.	Category	Details
1	TITLE OF CASE	Tharammel Peethambaran and Another Versus T. Ushakrishnan and Another ; Civil Appeal No. of 2026 [Arising out of SLP (C) No. 11868 of 2024].
2	DETAILS OF BENCH	Hon'ble Mr. Justice Pankaj Mithal and Hon'ble Mr. Justice S.V.N. Bhatti .
3	DATE OF JUDGMENT	February 06, 2026 .
4	FACTS OF CASE	The Plaintiff (Respondent), who resided in Mumbai, was the owner of the suit properties and executed a Power of Attorney (PoA) in favor of her brother, the 1st Defendant (Appellant), for management. The 1st Defendant, claiming comprehensive authority under a notarized photocopy of a PoA (Exhibit B-2), executed registered sale deeds in favor of the 2nd and 3rd Defendants. The Plaintiff challenged these sales, asserting that she only granted specific powers (excluding alienation) and that the document used by the Defendant was " fudged " and a " sham ". The 1st Defendant failed to produce the original PoA , claiming it was given to the Plaintiff's husband—an explanation the Trial Court found inconsistent.
5	LEGAL QUESTION	1. Whether a notarized photocopy of a Power of Attorney can be treated as valid secondary evidence to prove the authority of an agent without complying with the procedural requirements of the Evidence Act. 2. Whether the High Court exceeded its jurisdiction under Section 100 of the CPC by interfering with the First Appellate Court's findings of fact.
6	RULE OF EVIDENCE INVOLVED	Sections 63, 64, 65, and 66 of the Indian Evidence Act : Dealing with the definitions of secondary evidence, the "best evidence" rule (primary evidence), and the mandatory conditions/procedure for admitting secondary evidence. Section 85 of the Evidence Act : Regarding the presumption of the valid execution of a PoA, which only applies if the document is properly admitted. Sections 100 and 103 of the CPC : Regarding the scope of the High Court's power in second appeals.
7	CONCLUSION	The Supreme Court dismissed the appeal , holding that secondary evidence is an exception and a party must lay a factual foundation for the non-production of the original before it can be admitted. It ruled that Exhibit B-2 (the photocopy) was no evidence in the eyes of the law because the mandatory procedure under Sections 65 and 66 was not followed. Consequently, the 1st Defendant failed to prove his authority to sell the property, rendering the sale deeds void.
8	PREVIOUS JUDGMENTS RE-ITERATED	The Court re-iterated the "best evidence" principle from Smt. J. Yashoda v. K. Shobha Rani and the requirement to account for the non-production of originals from H. Siddiqui v. A. Ramalingam . Regarding the scope of second appeals, it re-iterated Hero Vinoth v. Seshammal , stating that the misconstruction of a document or reliance on inadmissible evidence gives rise to a substantial question of law . It also re-iterated O. Bharathan v. K. Sudhakaran , advising that courts should not compare disputed signatures without expert assistance.