



IN THE COURT OF SMALL CAUSES AT MUMBAI

ORDER BELOW EXHIBIT – 101

IN

MESNE PROFIT APPLICATION NO. 244 OF 2009

[C.N.R. NO. MHSCA2-0034852009]

IN

T. E. & R. SUIT NO.244/265 OF 2002

Prime Properties Private Limited

.....Plaintiff

Versus

Central Bank of India

.....Defendants

Coram : U. S. Babar

Judge, C. R. No. 9

Date : 29/07/2025

: O R D E R :

1. Defendant No.2 has filed this application for taking on record the authority letter and marking of Exhibit wherein he has contended that he has issued witness summon with regard to the agreement produced alongwith architect report. In the cross examination advocate for plaintiff asked the witness with respect to the authority given to him by the company regarding deposition. The witness has got the authority dated 15/7/2025 by the said company. Therefore, application be allowed and authority letter be marked as Exhibit.

2. Plaintiff has filed say at Exhibit 102 and contended that the application is misconceived. Evidence of witness is over. This application is filed to fill up the lacuna. Witness had no authority or

resolution authorizing him to depose on behalf of the company. Therefore, witness was not cross examined extensively. Witness has not produced resolution of the Arco Micaver LLP. Therefore, said authority letter cannot be taken on record and if it is taken further cross examination is required to be done. Hence, application be rejected.

3. Considering the application and say filed, following points arise for my determination, to which I have recorded my findings thereon with reason thereto as under: -

<u>Sr. No.</u>	<u>POINTS</u>		<u>FINDINGS</u>
1.	Whether the application deserves to be allowed ?		No
2.	What Order?		“Application is rejected”.

REASONS

AS TO POINTS NO.1 AND 2 :

4. Perused the application and say filed. I have heard learned advocates for both the sides. Plaintiff has filed original application for mesne profits against the defendants. Admittedly, on last date witness Sanjay Rana is examined as D.W.No. 5 at Exhibit 99. The said witness has not produced authority letter at the time of examination-in-chief. In cross examination, he admitted that he has not produced the resolution in respect of the authorization given by the company to depose before the court. The said witness voluntarily made statement on oath that on that date he had brought the original copy of resolution. Therefore, court has directed the witness to produce that original copy of resolution on record. This application is a outcome of the direction given by the court for the production of original copy of resolution on record in respect of the

authority given to the witness by the company. Today, by this application witness has not produced original resolution in which company has authorized him to depose before the court. He has only produced the letter of authority.

5. Witness on oath stated before the court that on the day of cross examination he had brought the original copy of resolution, but he has produced the letter of authority in which there is no reference of any resolution passed by the company in respect of the authorization given to him to depose. The application is totally inconsistent with the direction given by the court. Therefore, it deserves to be rejected. Accordingly, I answer point No.1 in the negative and in answer to point No. 2, I pass the following order :

: ORDER:

1. The application is rejected.
2. No order as to the costs.

Date : 29/07/2025
Mumbai

Dictated On : 29/07/2025
Transcribed on : 29/07/2025
Checked and signed on : 29/07/2025

(U. S. Babar)
Judge, C.R. No. 09