

**SMT. SHANTI DEVI KOTHARI VS. SRI
PROBHAT KUMAR MITRA
(Through Video Conference)**

Mr. Micky Chowdhury
Ms. Sayanti Bhattacharya
Mr. Varun Kothari
..for the petitioner
Mr. Balaji Chakraborty
Mr. Supratim Laha
..for the opposite party

This revisional application arises out of an order dated January 9, 2020 passed by the learned Civil Judge, Senior Division, 2nd Court, Barasat, District North 24 Parganas in Title Suit No.10 of 2013.

By the order impugned, the learned Court below disposed of the application under Section 151 of the Code of Civil Procedure filed by the petitioner/defendant praying before the learned Court below to note down the objection with regard to the certain documents, marked as Exhibits as per the schedule of the said application.

It is the contention of the learned Advocate for the petitioner that in the written statement, the defendant had denied and disputed the said documents. Questions were also put to the P.W.1. with regard to the correctness

and veracity of the said exhibits, but the learned Court below did not record the objection.

It is further submitted that an application has also been filed for appointment of hand writing expert/ forensic expert but the said application is pending consideration. However, the learned Court below by the order impugned, disposed of the application under Section 151 of the Code of Civil Procedure, thereby, rejecting the prayer for marking the exhibits with objection. Reference is made to the contents of the written statement, from which it appears that there has been a specific denial with regard to Exhibits 2&3 in the written statement.

From the cross examination, I find that from the statements of PW-1 it can be gathered that questions were put to the PW-1 with regard to the correctness veracity and validity of the Exhibits 2&3 and the signatures of the defendants in those documents.

The next prayer of the petitioner is that, before DW takes the box, the plaintiff may be recalled so that some questions which were missed out could be put to the PW-1.

The learned Advocate for the opposite party submits that the exhibits are a part of a criminal proceeding and they have been examined by the Forensic Science Laboratory and a report of the expert has been

marked as Exhibit-10 (with objection) in the criminal proceeding. Thus, according to the learned Advocate for the opposite party, no further objection is required to be marked in this proceeding.

Admittedly, these are two separate proceedings. Common documents may be exhibited and tendered in evidence and accepted in both the proceedings. The corroborative value of these documents will be decided only at the final hearing. It is for the plaintiff to prove the documents and the defendants cannot be denied a chance to object to the same.

The ultimate decision with regard to evidentiary/corroborative value will be decided at the time of hearing. Thus, I do not find any impediment to allow the prayer of the petitioner to mark the Exhibits 2&3 with objection. This Court does not make any observations with regard to the documents and reports, which have been marked in the criminal proceeding.

With regard to recalling of the PW-1, the Court feels that in the pandemic situation, an elderly gentleman cannot be asked to come to the Court premises. The petitioner will be entitled to put the question in the form of interrogatories and PW-1 will answer the same. Such documents will be placed before the learned Court below on the next date. The interrogatories will be restricted to the questions at page 39 of the revisional application.

Parties are directed to complete this exercise before the next date of hearing of the suit and file their respective interrogatories and the answer before the learned Court below on the next date. After the interrogatories are filed with the answer on the next date, the Examination in Chief of the DW will commence.

It is made clear that no unnecessary adjournments will be given to either of the parties and the learned Court below is requested to dispose of the suit expeditiously keeping in mind the age of the plaintiff and the age of the suit. The learned Court below shall proceed independently and in accordance with law.

This revisional application is disposed of.

There will be however no order as to costs.

Urgent photostat certified copy of this order be given to the parties on priority basis, if the same is applied for.

(Shampa Sarkar,J.)