

July 24, 2023
Sl. No.17
Court No.19
s.biswas

CO 713 of 2023

*Subhash Chandra Halder @Subhas Chandra Halder
and another
vs.
Sukdeb Halder and others*

Mr. Sandip Das

... for the petitioners

By the order impugned, the learned Civil Judge (Junior Division), 2nd Additional Court, Diamond Harbour, South 24 Parganas, refused to mark the written agreement and one receipt of khajna as exhibits.

It is an admitted case that photocopies of original were submitted by the petitioner for being marked as exhibit. The learned court below rightly rejected the prayer of the petitioner. Section 63 of the Indian Evidence Act, 1872 has not been complied with. Section 63 of the Act states as follows:

“63. Secondary evidence – Secondary evidence means and includes –

- (1) certified copies given under the provisions hereinafter contained;
- (2) copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies;
- (3) copies made from or compared with the original;
- (4) counterparts of documents as against the parties who did not execute them;

- (5) oral accounts of the contents of a document given by some person who has himself seen it.”

Thus, the foundation for filing the photocopies of the documents have not been laid. The petitioner has not been able to show before the learned court below, the reason as to why the photocopies were being filed and whether Section 63 of the Act had been complied with or not. Thus, this court does not find any necessity to interfere with the order impugned. The order impugned is upheld. If in future, the petitioner takes appropriate steps in accordance with law, the application of the petitioner shall be decided on contested hearing, upon giving adequate opportunity to the defendants to contest such application of the petitioner.

This court has not gone into the evidentiary value of the document which was sought to be marked as exhibit.

The revisional application is thus disposed of.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)