

D/L.8.
September 24, 2025.
MNS.

CO No. 126 of 2024

Debjani Seth alias Debjani Sarkar
Vs.
Sri Kanchan Sarkar and another

Mr. Partha Pratim Roy,
Mr. Samrat Chakraborty

... for the petitioner.

Mr. Supratik Syamal

...for the opposite parties.

1. The present challenge has been preferred by the defendant no. 1/petitioner in a suit for declaration that the registration of marriage between the parties is collusive, fraudulent, null, void and inoperative.
2. By the impugned order, the learned Trial Judge allowed an application under Section 65B of the Indian Evidence Act, 1872 filed by the plaintiff / opposite party no. 1.
3. Learned counsel for the petitioner contends that the plaintiff/opposite party no. 1 himself, in his evidence as PW1, admitted that he works at Canada and applied to various authorities for issuance

of Visa, for taking the defendant/present petitioner there. As such, it is argued that the plaintiff/opposite party no. 1 was in control over the e-mail ID of the petitioner at the relevant point of time and, hence, the electronic evidence sought to be produced by the opposite party no. 1 has no evidentiary value.

4. Learned counsel for the opposite party no. 1 submits that a previous application with the self-same prayer was rejected on technical grounds, due to non-compliance of procedural formalities.
5. It is submitted that the learned Trial Judge was justified in permitting the electronic evidence to be led upon production of appropriate certificate under Section 65B of the 1872 Act.
6. Upon hearing learned counsel for the parties, it is evident that by the impugned order, the learned Trial Judge allowed an application filed by the petitioner under Sections 63, 65A and 65B of the 1872 Act, thereby permitting the plaintiff/opposite party no. 1 to adduce electronic evidence

with appropriate certificate in consonance with law.

7. By the said order, no substantive right of the petitioner has been infringed.
8. In any event, the previous dismissal of a similar application on technical grounds, and not on merits, does not stand in the way of the subsequent application being allowed by the impugned order.
9. Insofar as the production of certificate under Section 65B is concerned, the same pertains to the admissibility of electronic evidence and does not touch upon the evidentiary value of such evidence, once brought on record.
10. Accordingly, there is no scope for interference.
11. Hence, CO No. 126 of 2024 is dismissed on contest, thereby affirming the impugned order, bearing Order No. 60 dated October 9, 2023 passed by the learned Civil Judge (Junior Division), Additional Court, Krishnagar, Nadia in Title Suit No. 8 of 2014.
12. However, it is made clear that it will be open to the petitioner to challenge the

evidentiary value of the electronic evidence sought to be brought on record by the plaintiff/opposite party no. 1 at the time of hearing of the suit and, if so raised, such issue will be decided in accordance with law by the learned trial Judge at the time of hearing of the suit on a conjoint appreciation of the entire evidence on record, without being influenced in any manner by any of the observations made herein or in the impugned order.

13. Needless to say, adequate opportunity will be given to the petitioner to cross-examine the witness of the opposite party no. 1 on the electronic evidence in question.

14. There will be no order as to costs.

15. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)