

Sl. 8
02.05.2025
Court No.6
BP

C.O. 1409 of 2025

Arun Goel & Anr.
-versus-
Vinay Jindal

Mr. Purnasish Gupta
Mr. Jayanta Kumar Mukhopadhyay
..for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the plaintiffs and is directed against an order dated March 5, 2025 passed by the learned Civil Judge (Senior Division), 1st Court at Howrah in Misc. Case No. 25 of 2021.

By the order impugned the application filed by the petitioners under Order 16 Rule 6 of the Code of Civil Procedure read with Section 65 and Section 66 of the Indian Evidence Act stood rejected.

Mr. Gupta, learned advocate appearing for the petitioners submits that in connection with the miscellaneous case filed under the provisions of Order 39 Rule 2A of the Code of Civil Procedure the petitioners sought to produce photocopies of some medical documents by way of secondary evidence as the originals are not available with the petitioners.

Section 65 of the Evidence Act states that secondary evidence may be given of the existence, condition or contents of a document when the original

is shown or appears to be in the possession or power - of the person against whom the document is sought to be proved, or of any person out of reach of, or not subject to, the process of the Court or of any person legally bound to produce it and when, after the notice mentioned in Section 66, such person does not produce it.

Section 66 of the Evidence Act states that secondary evidence of the contents of the documents referred to in Section 65, clause (a), shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, or to his attorney or pleader, such notice to produce it as is prescribed by law; and if no notice is prescribed by law, then such notice as the Court considers reasonable under the circumstances of the case.

In the instant case the petitioner is seeking to produce photocopy of the medical documents by way of secondary evidence. For such purpose, the petitioner has to comply with the requirements laid down under Section 66 of the Evidence Act which requires notice to produce to be served upon the party with whom the original of such documents are lying.

The petitioner instead of taking steps in terms of the provisions laid down under Section 66 of the Evidence Act has filed the photocopies of the medical

documents with a prayer to mark the same as exhibits. The learned trial judge was right in rejecting the said application.

In view thereof, this Court does not find any reasons to interfere with the order impugned.

With the above observations and directions, C.O. 1409 of 2025 is disposed of by leaving the petitioner free to take steps in accordance with law for production of secondary evidence.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)