

26.11.2025
SL No.10
Court No.6
(gc)

CO 3985 of 2025

**Chandrima Panja
Vs.
Srikumar Sinha**

Mr. Souvick Mitra,
Ms. Disha Roy
...for the Petitioner.
Mr. Arnab Sardar,
Mr. Soham Sen
...for the Opposite Party.

1. The petitioner is aggrieved by an order dated November 4, 2025, passed by the learned Civil Judge (Sr. Divn.), 1st Court at Barasat in Title Suit No.526 of 2021. It is submitted that in a suit for eviction of a licensee, an application was filed by the defendant, seeking impounding of three leave and licence agreements which were notarized. According to the defendant, each of these licences had the character of a lease and all of them were beyond the period of one year. Under the law, grant of lease of immoveable property for one year or more is compulsorily registrable and the stamp duty is to be paid as per the law. According to the petitioner, the notarized leave and licence agreements were insufficiently stamped. The learned Court rejected the application, *inter alia*, holding that

under Section 35(e) of the Indian Stamp Act, 1899, the admission of any instrument in any Court when such instrument had been executed by or on behalf of the Government or when it bore the certificate of the Collector as provided under Section 32, could not be prevented. Certificate by the Collector as per the law is affixed only when there is an adjudication on the proper stamp. In this case, neither was there any adjudication on the proper stamp payable on the said documents, nor were the documents executed either by or on behalf of the Government. The Court held that the documents were admissible in evidence, but the stamp duty was to be paid later. This, itself, is an irregular process, inasmuch as, the Court should have first come to a specific finding upon deciding the nature of the documents as to whether they were compulsorily registrable and whether the Court fees paid were insufficient or not. If the Court arrived at a finding that the said documents have a character of a leave and licence agreement, a finding to that effect ought to have been returned. If the Court was of the contrary view then, the document should have been impounded and sent for assessment by the Registrar. Moreover, without such consideration, the court directed that the stamp duty will be paid later, but rejected the application.

2. Under such circumstances, the order impugned is set aside.
3. The matter is remanded to the learned Court below for a fresh adjudication on the application filed under Section 151 of the Code of Civil Procedure dated November 4, 2025 and such application shall be decided before the suit proceeds.
4. This Court has not made any observation on the nature and character of the documents. The learned Court should decide the issue independently.
5. Accordingly, the revisional application is disposed of.
6. There shall be no order as to costs.
7. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)