

20.08.2025
Court No.25
Item No.22
sudipta

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 3603 of 2022

**Smt. Jaba Paul
Vs.
Aruna Devi Sikaria & Ors.**

Mr. Nirmalya Ray

...for the petitioner

Mr. Arnab Roy
Ms. Sayani Admed
Mr. Saibal Rakshit

...for the opposite parties

1. Present petition has been filed challenging the order no.140 dated 12.09.2022 in Title Suit No.128 of 2002 whereby an application filed by the petitioner / defendant under Section 151 of the CPC for expunging the document of photocopy of agreement dated 17th October, 2000 from evidence. Admittedly, the photocopy of the agreement dated 17th October, 2000 was marked as an exhibit and the objection raised by the petitioner / defendant was rejected. Subsequently, the petitioner / defendant filed an application for recalling of the order rejecting the objection which was allowed and the opposite parties / plaintiffs were given an opportunity to prove the documents. The petitioner / defendant again filed an application

under Section 151 CPC stating therein that the original agreement has not been filed and the prerequisite of secondary evidence has also not been fulfilled, therefore, such document ought to be expunged from evidence in trial. Learned Trial Court vide the impugned order, inter alia, held that photocopy of the agreement dated 17th October, 2000 has been admitted by the Court as evidence and made a part of the record and there is no provision to expunge the admitted documents.

2. At the outset, it is pertinent to mention herein that it is a settled proposition that a document filed under judicial record passes three stages. Firstly, when the document is simply filed it does not become part of the judicial record. Such document becomes part of the judicial record when tendered or produced in evidence and Court admits the document in evidence. However, whether the documents is “proved” or “not proved” or “disproved” is adjudicated in reference to Section 3 of the Indian Evidence Act at the stage of final hearing of the suit. It is a settled proposition that the mere marking of an exhibit does not dispense with the proof of documents. Reliance can be placed upon **Sait Tarajee Khimchand and Others vs. Yelamarti Satyam alias Satteya and Others** reported in **AIR 1971 SC 1865**. It is also a settled

proposition that admission of document under Order 13 Rule 4 CPC does not bind the parties and proof of the documents cannot be dispensed with unless the same formally held to be proved in accordance with law. Reliance can be placed upon **Ferozchin v. Nawab Khan** reported in **AIR 1928 Lahore 432** and **Hari Singh v. Karam Chand Kanshi Ram** reported in **AIR 1927 Lahore 115**.

3. In **Sudir Engineering Company vs Nitco Roadways Ltd.** reported in **1995 RLR 286** it was, inter alia, held that the admission of a document in evidence is not to be confused with the proof of a document. It was further, inter alia, held that when the Court is called upon to examine the admissibility of a document, it concentrates only on the document. However, when the Court is called upon to form a judicial opinion whether a document has been “proved” or “not proved” or “disproved”, the Court would look not at the document alone or only at the statement of the witnesses, it would take into account the probabilities of the case as emerging from the court record.

4. In **Sudir Engineering Company (supra)**, it was further, inter alia, held that the marking of a document as an exhibit, be it in any manner

whatsoever either by use of alphabets or by use of numbers, is only for the purpose of identification. It was further, inter alia, held that the endorsement of an exhibited number on a document has no relation with its proof.

5. The Court considers that there is nothing further which can detain this Court to hold that there is no substance in the present revision petition. However, for the purpose of completeness, it is made clear that question relating to whether the document is “proved” or “not proved” or “disproved” shall remain open and shall be determined by the Court in reference to Section 3 and Section 65 of the Indian Evidence Act at the time of final hearing of the suit and appreciation of evidence.
6. With the above observations, the present petition being **C.O. 3603 of 2022** stands **disposed of**.
7. No expression made herein shall tantamount to be an expression on the merits of the case.
8. All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Dinesh Kumar Sharma, J.)