

08.4.2026
Ct. no. 6
D/L.147
Samarpita

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
(Appellate Side)

C.O. 778 of 2026

Asit Dutta
Vs.

Anil Kumar Gupta

Mr. Sagnik Chatterjee,
Mr. Sayan Mukherjee
... for the Petitioner

Mrs. Shohini Chakraborty,
Ms. Prajaaini Das
... for the Opposite Party

1. This revisional application is directed against an order dated February 24, 2025 passed in Title Suit No. 03 of 2018 by the learned Civil Judge (Junior Division) 1st Court at Durgapur, whereby the learned Trial Court has marked certified copies of registered sale deeds as exhibits on the basis of an application made by the opposite party (Plaintiff in the suit).
2. Mr. Sagnik Chatterjee, learned advocate appearing for the petitioner submits that, certified copies of certain sale deeds have been marked as exhibits only on the basis of an application under the cover whereof such

sale deeds had been produced without the same being formally tendered in evidence by the plaintiff (opposite party) after closure of the plaintiff's evidence.

3. It is submitted that the learned Trial Court could not have permitted such a course to be adopted.
4. Mrs. Sohini Chakraborty, learned advocate appearing for the opposite party submits that, the documents which have been marked as exhibits are effectively admitted documents and the same were not in possession of the plaintiff-opposite party.
5. It is further submitted that the opposite party came to learn about the said documents only during the cross-examination of the defendants and as such there was no scope for the opposite party to tender the same in evidence at the any point of time during the plaintiff's witness action.
6. Heard the learned advocates appearing for the respective parties and considered the materials on record. It cannot be over emphasised, that for a document to be marked as exhibit, there is a formal legal procedure which must be followed and undergone. While it is true that a certified copy of a public document is admissible in evidence,

even without formal proof thereof, yet it is required to be formally tendered. Order 13 Rule 4 of the Code of Civil Procedure requires the name of the person producing (tendering) the document to be endorsed on the document if the same is admitted. Such tender must therefore be by a witness and not by way of an application. The observation of the learned Trial Court that the document can be tentatively marked exhibit in view of the law laid down by the Hon'ble Supreme Court in the case of ***Bipin Shantilal Panchal vs. State of Gujarat*** reported at ***(2001) 3 SCC 1*** would be aptly applicable only after the document to be taken as evidence is formally tendered for being marked exhibit through a witness.

7. Indeed if good grounds can be shown to exist, there is no bar on any litigant to produce the document upon recalling a witness even after closure of evidence.
8. In such view of the matter, the order dated February 24, 2025 by which the opposite party's application for marking the certified copies of registered sale-deeds has been allowed is set-aside.
9. This order shall, however, not preclude the opposite party from making an appropriate

application seeking recall of the witness for the purpose of the formally tendering the certified copies of the sale deed in evidence and marking thereof as exhibits in accordance with law.

10. If such application is made the same shall be considered and disposed of by the learned Trial Court expeditiously on its own merits, in accordance with law.
11. With the aforesaid observations, **C.O. 778 of 2026** stands disposed of.
12. There shall be no order as to costs.
13. Urgent photosat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Om Narayan Rai, J.)