

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

Present:

The Hon'ble Justice Debangsu Basak

CO 16 of 2025

Guddu Roy

Vs.

Bhola Roy & Anr.

For the Petitioner : Mr. Bhaskar Roy Mahasaya, Advocate
Ms. Ambalika Ghosh, Advocate
Ms. Taniya Bhowmik, Advocate

Heard & Judgment on: **January 13, 2026**

DEBANGSU BASAK, J.:-

1. Petitioner assails Order No.56 dated November 11, 2024 passed by the learned Civil Judge (Junior Division), Alipurduar in connection with Title Suit No.164 of 2017 rejecting the prayer of the petitioner to mark certified copy of the plaint of Title Suit No.444 of 2018 pending before the learned Civil Judge (Senior Division), Darbhanga as an Exhibit.
2. None appears for the opposite parties, despite service.
3. During recording the evidence of the plaintiffs, a certified copy of the plaint of a suit being Title Suit No.444 of 2018 pending before the learned Civil Judge (Senior Division), Darbhanga was sought to be tendered in evidence and marked as an Exhibit.

4. By the impugned order, learned Trial Judge refused to mark such certified copy as an Exhibit on the ground that the original was available and the plaintiff was required to produce the same.
5. With the deepest of respect, secondary evidence is permissible to be led at the trial, once the person tendering such secondary evidence is in a position to establish that, the original of such document is not available for being marked as an Exhibit despite due diligence of such person.
6. In the facts and circumstances of the present case, there is a Title Suit which is pending in a Court at Bihar. Certified copy of the plaint of such Title Suit is sought to be tendered by way of evidence. Factum of pendency of title suit was admitted by the first witness of the defendant.
7. Certified copy, in the facts and circumstances of the present case, was issued by the Court, in which, the Title Suit is pending. There is no ground to disbelief the certified copy so tendered.
8. In such circumstances, I am of the view that, the certified copy of the plaint in Title Suit No.444 of 2018 pending before the learned Civil Judge (Senior Division), Darbhanga can be tendered as an Exhibit at the trial. Such document be so marked as an Exhibit.
9. Impugned order to that extent is modified.
10. **CO 16 of 2025** is **disposed of** without any order as to costs.

(Debangsu Basak, J.)