

In the Court of : **SUB-JUDGE-I, BAKHRI, BEGUSARAI**
Present: **MANOJ KUMAR SINGH, CIVIL JUDGE (Sr. Div.)**
Title Suit No.-563/2012, CIS Reg. No.- 563/2012



In the matter of-

Ramdeo Paswan & Ors.

..... Plaintiffs

Vs.

BRBE220000212012

Samita Devi & Ors.

..... Defendants

Sl.	Date of Order of proceedings	Order with signature of the Court	Office action taken with date
1	2	3	4
	17.04.26	Both parties are present. The record has been presented for order after hearing the petition dt.-03.01.26 filed by the defendant under section 74 of the Evidence Act. <u>ORDER</u> The application dated dt.-03.01.26 filed by the defendant under section 74 of the Indian Evidence Act. Ld. counsel of the petitioner has submitted that some documents have been filed on behalf of defendant on dated 15.03.2016 with list of documents which is laying in the suit record. The documents filed by defendant as follows:- I. <i>An original copy of Khatiyani named by Mangal Paswan and Jungal Paswan and Akal Paswan S/o Butan, Cast- Dusadh related Mauza- Rajakpur.</i> II. <i>An original Registered deed year 1907 named by Babu Gajraj singh S/o Shiv Dayal Singh village-Nawkothe and other executed by Jangal paswan and other.</i> III. <i>An original copy of Tenure/ Nilami document related disputed land.</i> IV. <i>An original Jamindari receipt issued by Jamindar Raja Rajesheshwar prasad and Babu lal Prasad Singh at Nawkothe .</i> V. <i>An original copy of receipt no. 463618 related Jamabandi no.32 named Smt. Samar Devi W/o- Gita Pd. Singh, Village-Naokothi.</i> VI. <i>An original copy of rent receipt no. 2684058 Related Jamabandi no. 809 named by Smt. Sagar Devi W/o- Gita Pd. Singh, Village-Naokothi.</i> VII. <i>An original copy of receipt no. 090201 related Jamabandi no. 809 named by Smt. Samar Devi w/o- Gita Pd. Singh, Village-Naokothi.</i> VIII. <i>An original copy of deed no. 4643 dated 19.10.12 named by Samita Devi w/o- Janardan Yadav (defendant), Village- Dumariya Rajakpur executed by Samar devi and others.</i> IX. <i>An original receipt no. 00153794 Jamabandi no. 530 named by Smt. Samita Devi w/o- Janardan Yadav village- Dumaraiya Rajakpur.</i>	

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	<u>Continued</u> 17.04.26	X. <i>An original certified copy of order sheet of SDM Court Bakhri U/S- 144 CrPC case no. 196/13 Ramdeo Paswan versus Janardan Yadav.</i> XI. <i>An original certified copy of Order Sheet, Plaint and Written Statement related case no. 33/2014 Narayan Paswan versus Janardan Yadav of DCLR Court, Bakhri.</i> Ld. counsel has further submitted that all the aforesaid documents are the public documents. Ld. counsel made a prayer to allow the present petition of defendant and mark exhibit the aforesaid documents as defence evidence. The copy of said petition could not been served plaintiff. Ld. counsel of plaintiffs is not available before court. Heard ld. counsel of defendants and perused the record. From perusal it transpires that the above said documents have been filed by defendants are on record. It is settled proposition of law that for the just and proper decision of the case, it appears expedient in interest of justice that the documents relevant for the purpose of the suit be available on the record and to be marked exhibit as per provisions of law. Document no.-‘I’, ‘III’ and ‘X’ are public documents, therefore, it would be proper to mark them as exhibit. Document no- ‘II’ & ‘VIII’ are Original Registered Sale deeds which do not come in the ambit of Public Documents under section 74 of Evidence Act. Document no.- ‘IV’, ‘V’, ‘VI’, ‘VII’, & ‘IX’ are original rent receipts which are private documents and they cannot be marked exhibit as public documents u/s- 74 of the Evidence Act. So far as the document no- ‘XI’ is concerned it consists of Certified Copies of Order Sheet, Plaint and Written Statement in connection with Case no.- 33/2014 Narayan Paswan vs. Janardan Yadav in the court of DCLR, Bakhri. The Certified Copy of Order Sheet of case no- 33/2014 in the court of DCLR, Bakhri is a public document, but the certified copies of Plaint and Written statement are private documents. Being a public document, the Certified Copy of Order Sheet of case no- 33/2014 in the court of DCLR can be marked as Exhibit but so far as the question of mode of marking of exhibit the Certified Copy of	

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	<u>Continued</u> 17.04.26	Plaint and Written Statement is concerned it appears not proper as per provisions of section 74 of the Evidence Act. Although these are Certified Copies of a private documents kept in the public record and having character of a public document U/S- 74 of the Evidence Act, but mere filing of Certified Copy of a Plaint or Written Statement filed in any earlier proceedings will not amount to proof of the same. Plaint or Written Statement filed in a civil suit or any proceedings is a private document and this private document kept in public record has to be proved by summoning the file containing the Written Statement and thereafter the Certified Copy being proved and exhibited in accordance with law. [See <i>Sunny (Minor) vs. Sh. Raj Singh, 2015 SCC OnLine Del 13446</i>]. Considering above discussed facts and circumstances of the suit the defendant's petition dt.-03.01.26 is <i>Partly allowed</i>. Office is directed to mark Exhibit the documents:- I. <i>Original copy of Khatiyani named by Mangal Paswan and Jungal Paswan and Akal Paswan S/o Butan, Cast- Dusadh related Mauza- Rajakpur as Ext.-"_____".</i> II. <i>Original copy of Tenure/ Nilami document related disputed land as Ext.-"_____".</i> III. <i>Original certified copy of order sheet of SDM Court Bakhri U/S- 144 CrPC case no. 196/13 Ramdeo Paswan versus Janardan Yadav as Ext.-"_____".</i> IV. <i>Original certified copy of Order Sheet related to case no. 33/2014 Narayan Paswan versus Janardan Yadav of DCLR Court, Bakhri as Ext.-"_____".</i> So far as the mentioned above other documents are concerned the defendants have liberty to take proper step for getting marked these documents as exhibits as per appropriate provisions of evidence act. Put up on for further proceedings. (Manoj Kr Singh) Sub-Judge-I, Bakhri, Begusarai.	