

**ORDER ON APPLICATION FILED U/S 65B OF INDIAN
EVIDENCE ACT**

The present application has been maintained by the applicant/plaintiff herein invoking the provision contemplated under the Indian Evidence Act U/s 65B. Whereby, the applicant solicited and also prayed this court to consider the photographs along with the CD which have been produced before this court.

2. Further according to the said applicant herein, the said photographs with the CD which is in placed are the electronic evidence and the said materials are very relevant and also there is a need to consider the said materials so as to settle all the disputes and determine the constraints and the real conflicts which was arose so as to clear the obscurity in the present suit. Hence, the applicant sought for consideration of the said materials as evidence.

3. Further the counsel for the defendant challenging and countering the said application and also declining the averments and reprobating the contentions and views of the applicant, the statement of objections has been instilled and moved before this court, where by the opponent the defendant herein has attributed and also excreted in the said objections that, the application which is filed by the applicant is not maintainable. Further it has been professed and stipulated in the said objections that, the plaintiff has not produced correct source with respect to the

documents procured from the proper studio. Further, the said documents which are presented before this court were not obtained from the concern authenticate authority. Hence, the application and the affidavit which is filed incidentally without proper certification is not maintainable as per the opponent, therefore prays for dismissal of the application.

4. Heard the counsel appearing for the applicant/plaintiff and also counsel appearing on behalf of the defendant.

5. The following points arise for this court's consideration.

1) Whether applicant has made out sufficient grounds for allowing the present application?

2) What Order?

6. This court findings on the above points for consideration are as under:

Point No.1: In the Affirmative

Point No.2: As per the final order for the following :

REASONS

7. POINT NO.1:

Upon perusal and verifying the documents placed before this court by the plaintiff and also averments as maintained in the application and also opposed in the objections were verified and also upon noticing and perusing the said pleadings, the application is filed seeking

for production of CD along with the photographs stored in the said CD. Further as per Sec. 65B of the Indian Evidence Act, the admissibility of the Electronic records would be any information which is contained in an electronic record which is either printed on a paper, stored or recorded in any magnetic media produced by a computer shall be deemed to be a document.

8. Further, as per the said section and provision which has been postulated and stipulated therein, any document printed or contained in magnetic media are deemed to be a documents. Further the correctness validity bonafide or other veracity of the said documents are to be considered after providing an opportunity of being heard and also subjecting the documents after proper scrutiny and cross-examination that may be conducted by the opponent/defendant. Nevertheless, having been said so, fair trial means just and fair opportunity to the parties to substantiate suitably by leading resemblance evidence so as to arrive definite conclusion or to settle the disputes under the suit. If the application is not considered and the plaintiff is not allowed to produce the documents which are the outputs of the magnetic process which are produced by a computer and it will certainly leads shorn and to curtail very embodied fair trial opportunities which has been emerges from the various and innumerable of verdicts. Hence, this court certainly cannot arrive conclusion regarding the validity, fidelity and correctness of a

document at the very initial threshold and callow stage. Further, there is no impediment or embargo or prejudice may be caused as against the opponent/defendant who will be provided suitable opportunities to counter and also to reprobate the said documents during cross-examination subsequently. Hence in the opinion of this court the application is liable to be allowed. Hence this court inclined to answer the **point No.1 in the affirmative.**

9. POINT NO.2:

In view of the above discussions and the reasons mentioned therein, this court proceeds to pass the following:-

ORDER

The application filed by applicant/plaintiff U/s 65B of Indian Evidence Act is hereby allowed.

Incidentally the documents which are offered through the applicant are hereby taken into consideration. Hence, so to lead the evidence accordingly.

Call on: 17.02.2025.

**(Chandan S)
Prl. Civil Judge & JMFC.,
K.R.Nagar.**