

**IN THE COURT OF SPECIAL COURT NO-2,
JAYANKONDAM**

Present : Tmt.J.Anitha Christy, M.L.,
Special Judge No-2,
Jayankondam

JO CODE : TN 0 1988

Monday, the 9th day of June-2025

I.A.No: 9/2025

in

OS. 249/2020

1.Thangavel (died),
S/o.Kaliyan @ Kaliyaperumal,

2. Banumathi,
W/o.Thangavel,

3.Anitha,
D/o.Thangavel,

4.Ananthbabu,
S/o.Thangavel,

All Petitioners
Sriraman Village,
Andimadam Taluk,
Ariyalur District.

...

Petitioners/Defendants

/Vs/

Sivaraman,
S/o.Ramalingam,
Satthaavattam Village,
Srimushnam Taluk,
Cuddalore District.

...

Respondent/Plaintiff

This petition was coming up for final hearing before me on 02.06.2025 in the presence of Thiru.T.S.Stalin Advocate for the petitioners and Thiru.V.Sathasivam, Advocate for Respondent, and hearing upon the arguments

and connected material records and having stood over till this day for consideration, this court is delivered the following....

ORDER

This is an application filed by the petitioners/defendants under Section 63 of the Bharatiya Sakshya Adhiniyam 2023, seeking permission to accept and mark the electronic evidence CCTV footage and cellphone recordings on the defendant side.

(2) The brief averments of the petition is as follows:

The respondent/plaintiff has filed a suit against the petitioner/defendant for recovery of the amount, and the petitioner/defendants are impleaded as legal heirs in the suit filed by the plaintiff, but the respondent/plaintiff deliberately concealed the details of the suit filed against the petitioner/defendants and talked to the petitioner/defendants, and the plaintiff refused to pay the amount for borewell as the plaintiff had damaged the borewell on the land acquired by the petitioner/defendants. The respondent/plaintiff inspected the borewell on 16.02.2020 and 23.02.2020. Even though he tried to repair it, it was recorded on the CCTV camera kept by the petitioner/defendant on the said land. Further, on 27.10.2020, a conversation was held at the plaintiff's house to withdraw the case it was recorded through cellphone. Hence this petition was filed to file the above documents in this court and the petitioner/defendant's CCTV camera was working properly at the time the audio and video were recorded. Further, the petitioner stated that, the cell phone was in good condition and is still in proper working condition and that the audio and video have not been cut or pasted and no changes have been made. Hence prayed for admitting the documents on the defendant side.

(3) The brief averments of the counter is as follows:

The respondent/plaintiff has submitted that no such documents have been filed along with the petition by the petitioner/defendant and the documents stated in petition are fabricated documents by the petitioner/defendant after the case was filed. Since the documents mentioned in the petition do not meet any of the conditions mentioned in Bharatiya Sakshya Adhiniyam Act 2023 Sec 63, hence the documents are not admissible as per law. Further stated that the petitioner/defendant has filed this petition with the sole intention of protracting the proceedings of the respondent/plaintiff, and that the petitioner/defendant has filed this improper petition with the sole intention of delaying the cross-examination of the plaintiff and delaying the trial despite the opportunities in his evidence. The petitioner/defendant will not suffer any loss by dismissing the petition. Hence prayed for dismissing the petition.

4) The point for consideration is whether the petition is to be allowed?

5) Both side heard. Records perused. Heard the learned counsel for the petitioner/defendant and the respondent/plaintiff. The petitioner has filed the present petition seeking acceptance of certain electronic evidence, namely CCTV footage and cellphone audio recordings, purportedly captured during the respondent/plaintiff's inspections on 16.02.2020 and 23.02.2020 near the borewell of the petitioner/defendant and a conversation dated 27.10.2020 between respondent/plaintiff and petitioner/defendant.

(I) The petitioner has averred that the said evidence is crucial to demonstrate certain acts of the respondent/plaintiff, including the alleged damage to the borewell on the disputed land and subsequent efforts to suppress the same. It is stated that the CCTV camera and mobile phone used for recording were functioning properly, and that no alterations, cuts, or edits were made to the electronic media.

(ii) Per contra, the respondent/plaintiff has filed a counter contending that the documents now sought to be introduced are fabricated and were never part of the pleadings initiated by the petitioner/defendant. It is further submitted that the documents fail to meet the statutory requirements for admissibility under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023, specifically the mandatory certification requirements under sub-section (4)(c). The respondent asserts that the petition is nothing more than a delay tactic, filed solely to protract and frustrate the progress of trial.

(iii) Upon consideration of the rival submissions and perusal of the records, it is evident that:

1. The electronic records sought to be introduced are not accompanied by the statutorily mandated certificate under Section 63(4)(c) of the Bharatiya Sakshya Adhiniyam, 2023.

2. There is no material placed on record to satisfy the four foundational conditions laid down under Section 63(2) of Bharatiya Sakshya Adhiniyam 2023, regarding regular use, data input, proper functioning, and accuracy of the device.

3. The timing and manner of filing the petition lend credence to the respondent's submission that the same has been filed belatedly and without due diligence.

6) In view of the above, this Court is of the considered opinion that the petition does not satisfy the legal requirements for admission of electronic evidence under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023. Accordingly, the petition is liable to be dismissed.

7) In result, This petition is dismissed. No costs.

This order is directly dictated to the Steno – Typist typed in a computer and corrected and pronounced by me in the open court, this the 9th day of June 2025.

Special Judge No-2
Jayankondam.

List of Witnesses and Exhibits:- Nil

Special Judge No-2
Jayankondam.

