

Present:-**Sri Soumen Sarkar (WB 00889),
Additional District Judge,
3rd Court, Purulia.**

Title Appeal no.47 of 2019

Order no. 53

Dated 24-01-2025

This day is fixed for hearing under Order 41 Rule 27 read with Section 151 Cr.P.C and filing W/O, if any, in the meantime.

Appellant has filed hazira through Ld. Advocate.

Appellant has also filed Certified copies of two deeds vide No.8566 for the year 1978 and Deed no. 8567 for the year 1978 under firisti.

Let those be kept with the case record.

Respondent/State has filed hazira through Ld. Additional Govt. Pleader namely Sri Sanjib Ghosh.

The private Respondent has filed a petition praying for time to file W/O against the petition on the ground stated therein.

Perused the petition of Private Respondent and heard their Ld. Advocate.

No document can be shown regarding the accident in the family of the respondent and as such, the prayer for further time to file W/O is rejected.

Case record is taken up for hearing petition under Order 41 Rule 27 read with Section 151 C.P.C.

Perused the petition and deciphered that the appellant stated therein that during the discussion in the impugned Judgment of the Ld. Court below it was pointed out by the Ld. Trial Judge that though plaintiffs/Appellants stated about Deed No.8566 for the year 1978 and Deed no. 8567for the year 1978 in their pleadings. Plaintiffs did not produce those documents in evidence during trial. Therefore, the Appellants have prayed for permission to file the certified copies of aforesaid two deeds of sale and to accept the same as additional evidence.

Ld. Advocate for the Appellants submitted that as the certified copies of those were not in the custody of the plaintiff the same could not be filed before the Ld. Trial Court and as such, opportunity should be give to the Appellants to adduce additional evidence submitting certified copies of those two deeds in evidence.

Ld. Additional Government Pleader (AGP) for the Respondent/State raised objection stating that certified copy of the deed of sale being secondary evidence cannot be accepted as evidence unless it is proved as to why the primary evidence could not be produced but the Plaintiffs/Appellants have not stated as to where are the Primary evidence (original sale deeds) and as such, the prayer of the Appellants has been disputed by the Ld. AGP.

Ld. Advocate for the private Respondent also contended in the same tune with the Respondent/State.

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After hearing the submission of both the sides and keeping in view that in the pleadings of the Plaintiffs/Appellants there is mention of sale deed no.8566 for the year 1978 executed by Shib Sadhan Choudhury in favour of Md. Bahar and Deed no. 8567 for the year 1978 executed by Ardhendu Choudhury in favour of Md. Bahar. It is pertinent to note here that the case of the plaintiff is based on the existence of those two deeds and those two deeds are the important documents for adjudication of this case. It is pertinent to note here that it is the settled principle of law that certified copy a deed of sale is public documents and as such, there is no impediment to accept the same in evidence. Moreover, when the two deeds intended to be produced by the Appellants as additional evidence are necessary for adjudication of the lis, the same are required to be accepted in evidence from the side of the plaintiffs. Therefore, I do not find any embargo to accept the prayer of the Appellants.

Accordingly, the petition under Order 41 Rule 27 read with Section 151 Cr.P.C filed by the Appellants on 07-11-2024 is hereby allowed on contest.

Let certified copies of the Deed No.8566 for the year 1978 be marked as **Exhibit-2** and Deed no. 8567 for the year 1978 be marked as **Exhibit-3**.

Case is adjourned today.

Fixing **10-03-2025** for hearing of the Appeal.

D/C by me.

ADJ, 3rd Court, Purulia

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