

20.05.2026
Ct. No.6
Sl. No.6
skg

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 4301 of 2025

Tulsi Guchhait & Ors.

Vs.

Sukumar Maji & Ors.

Mr. Prosenjit Mukherjee,
Mr. Nirmalya Das,

...for the Petitioners

Mr. Mihir Kumar Das,
Mr. Sujit Bhattacharya,

...for the Opposite Parties

1. This revisional application is directed against an order dated October 31, 2025 passed by the learned Civil Judge (Jr. Div.) 2nd Court, Tamluk in Title Suit no. 490 of 2014 whereby the opposite parties' application for marking certain documents as exhibits has been allowed.
2. Title Suit no. 490 of 2014 has been filed by the opposite parties herein praying, *inter alia*, for a decree for declaration and injunction. In the said suit during the examination- in- chief of the P.W.1, a *Hukumnama* and a money receipt were tendered in evidence. The same were respectively marked as 'X' and 'X1' for identification.
3. Subsequently, the opposite parties filed an application before the learned Trial Court, praying to mark the said documents (previously marked 'X' and 'X1' for identification) as exhibits. They asserted that since the

documents (marked 'X' and "X1" for identification) were respectively a *Hukumnama* (i.e., a deed of settlement) whereby the subject property was settled in favour of the opposite parties via *Bandobosto* (settlement) for a consideration of only Rs. 70/- and the money receipt evincing payment of *salami* were more than thirty years old and had been produced from the proper custody of the opposite parties, there could be no doubt regarding its genuineness.

4. The learned Trial Court marked the documents as exhibits, observing that the same were more than thirty years old, came from proper custody and did not require compulsory registration since the consideration for transfer of the property involved was less than Rs.100/-.
5. Mr. Mukherjee, learned Advocate appearing for the petitioners submits that the learned Trial Court has committed a jurisdictional error in marking the *Hukumnama* and the money receipt as exhibits inasmuch as the *Hukumnama*, upon being reduced to writing would require registration in terms of the provision of Section 17 of the Registration Act, 1908. In support of his contention, he relies on a judgment of the Hon'ble Supreme Court in the case of ***Sita Maharani & Others vs. Chhedi Mahto & Others*** reported at **(1955) 1 SCC 83**.

6. He further submits that the petitioners have not cross examined the opposite parties on such documents and as such leave may be granted to the petitioners to cross examination the opposite parties' witness on such point.
7. Mr. Das, the learned counsel appearing for the opposite parties, submits that since the *Hukumnama* and the money receipt are more than thirty years old and the consideration for settling the subject property in favour of the opposite parties through the said *Hukumnama* is less than Rs.100/-, therefore, the documents do not require registration. He further submits that, in view of these facts, the learned Trial Court committed no error in admitting the said documents into evidence as exhibits.
8. Heard learned Advocates appearing for the respective parties and considered the material on record.
9. In view of the law laid down by the Hon'ble Supreme Court in the case of ***Bipin Shantilal Panchal vs. State of Gujarat & Another*** reported at **(2001) 3 SCC 1**, the learned Trial Court may be justified in marking the documents as exhibits while postponing the assessment of the evidentiary value thereof to the final stage while observing that *"At no stretch of imagination, can it be said that, a document, if marked as exhibit during trial or even at a later stage on prayer of the party, ipso facto become proof of facts asserted by either party."*

10. However, the following observations made by the learned Court call for interference:

“On perusal of the ‘Hukum-nama’ and money receipt in question, it appears to me that the transaction being less than Rs.100/-, the said ‘Hukum-nama’ is not compulsorily registrable instrument. It is evident that both the documents were, more than thirty (30) years old and produced from appropriate custodian in course of trial.”

11. **Sita Maharani & Others** (supra) is a clear salutary authority on the point that once a *Hukumnama* is reduced to writing, the same becomes compulsorily registrable.
12. In the present case the document has been termed as *Hukumnama* and it is in writing, therefore it cannot be simply said that since the value/consideration of the property transferred thereby or of the transaction thereunder is less than Rs.100/- the same would not be compulsorily registrable.
13. If a document falls under Section 17(1)(d) of the Registration Act, 1908 the same would require registration notwithstanding the value/ consideration of the property forming subject matter thereof being less than Rs.100/- and if not registered such a document would be inadmissible in evidence by reason of Section 49 of the 1908 Act, though it can be looked into for collateral purposes.

14. A document may not be compulsorily registrable, only if the same satisfies the conditions of Section 18 of 1908 Act and it is only in such cases that such document may not be inadmissible for want of registration.
15. The learned Trial Court would therefore need to analyse the content of the *Hukumnama* in question in terms of the law laid down by the Hon'ble Supreme Court in the case of ***Yellapu Uma Maheswari vs. Buddha Jagadheeswararao*** reported at ***(2015) 16 SCC 787*** and ascertain if it is of the same nature as found in the case of ***Sita Maharani & Others*** (supra) i.e., whether it itself creates a right. If it, does it would require registration and would be inadmissible in evidence. Paragraph 14 of ***Sita Maharani & Others*** (supra) may be noticed in such regard:

“14. Since it was the case of the respondents that the settlement of the raiyati interest with them had been reduced to writing, the hukumnama required registration. Since it was not registered, it is inadmissible and no evidence could be given as to its terms and the contents of Ext. D could not be used for that purpose, particularly as the hukumnama and the receipts in support of it have been found not to be genuine. There is nothing on record to show that the alleged admission contained in Ext. D was founded on any settlement other than this hukumnama.”

(Emphasis supplied)

16. Furthermore, the fact that a document more than thirty years old, has come from proper custody would only

raise a presumption as regards its genuineness but would not make the same *ipso facto* admissible in evidence if it is otherwise not admissible for want of registration.

17. The marking of the aforesaid documents as exhibits will therefore stand modified and the documents would now be treated as marked as exhibits with objection.
18. Such objection would be decided by the learned Trial Court at the time of final adjudication after the hearing the learned Advocates for the respective parties. It is made clear that, in terms of the directions of the Hon'ble Supreme Court in the case of ***Bipin Shantilal Panchal*** (supra), the aspect of admissibility of the documents is merely deferred, and the learned Trial Court shall determine whether the documents are at all admissible in evidence at the stage of the final judgment.
19. The submission of Mr. Mukherjee that the petitioners have not got an opportunity to cross examine the opposite parties on the *Hukumnama* is not supported by the material on record inasmuch as the learned Trial Court has specifically found that “.....it is evident from the cross-examination of P.W. 1 that they had duly cross examined P.W. 1 upon anticipating the validity of ‘Hukum-nama’ and money receipt on its merits even before formally marking of those documents as Exhibits for the plaintiff’s side....”

20. Needless to mention that the learned Trial Court would also take into consideration the fact in terms of Section 49 of the 1908 Act, an unregistered document can still be taken into consideration for collateral purposes. All these questions would be required to be considered by the learned Trial Court at the time of final adjudication and consideration of the document that have been marked as exhibit with objection.
21. With the above observation and modification/clarification, the present revisional application being C.O. 4301 of 2025 stands disposed of. There shall be no order as to costs.
22. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)