



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 13th OF MARCH, 2026

MISC. PETITION No. 1514 of 2026

SMT MUNENDRA KUMAR SAMAIYA AND OTHERS

Versus

*SMT VARSHA SAMAIYA W/O SHRI SHOBHIT SAMAIYA AND
OTHERS*

.....
Appearance:

Shri Rohit Pathak - Advocate for the petitioner.
.....

ORDER

The present has been filed challenging the order passed by the trial court dated 02.02.2026 whereby the trial court has allowed the application under Section 60 Bhartiya Sakshya Adhiniyam-2023 (corresponding to Section 65 of Indian Evidence Act, 1872) whereby the trial court has permitted to lead secondary evidence of the documents in question.

2. The counsel for the petitioner has vehemently argued that the respondent/plaintiff has been making repeated unsuccessful attempts to take the document on record and he has failed in all his attempts to get the document taken on record. It is submitted that the document in question is written on a stamp paper of Rs 100/- and it was filed in a criminal case under Section 138 of Negotiable Instrument Act and after conclusion of trial, now the matter is pending in a criminal appeal before this court. A civil suit has also been filed between the parties and the plaintiff has been trying to get the said document written on a stamp paper of Rs 100 to be taken on record in



the civil suit. Earlier he unsuccessfully filed application for calling the original file of the trial under Section 138 of Negotiable Instruments Act, which was rejected by the trial court vide order dated 08.05.2025 holding that the documents have not been shown to be relevant to the matter in issue. It is contended that thereafter the plaintiff had filed another application under Order 7 Rule 14 CPC to bring the said document on record, but that application was also rejected by the trial court on 03.12.2025 and the respondent/plaintiff has unsuccessfully approached this court in MP No. 124 of 2026, which was decided by order vide order dated 14.01.2026, thereby the petition was dismissed and passing reference was made by this court that the petitioner has not resorted to Section 60 of BSA-2023. It is argued that keeping this passing reference contained in this order of this court dated 14.01.2026 to be a liberty to file application under Section 60 BSA, thereafter the plaintiff filed an application under Section 60 BSA, which has been erroneously allowed by the trial court and the trial court has permitted to lead secondary evidence from the certified copy of the said document, which has been obtained from the concerned record of the other court, where the original is available.

3. Upon considering the aforesaid assertions of counsel for the petitioner, it is seen that the document which the plaintiff has been trying to place on record is a document written on a stamp paper of Rs. 100, which as per the plaintiff contains some acknowledgement of payment. The sheet-anchor of submissions of petitioners/ defendants before this court was an order dated 08.05.2025, wherein as alleged by counsel for petitioner, it has



been held by the trial court that the document is not relevant to the case.

4. However, upon perusal of the order dated 08.05.2025, whereby the application for summoning the original record of the other case has been rejected, it is seen that the trial court has not conclusively held that the document is not relevant for the purpose of the present case, but the trial court granted liberty to the plaintiffs to get the original of the document obtained from the High Court and then filed before the trial court, and the trial court only refused to call for the record from the High Court in which the original document is available.

5. Therefore, it is clear that the trial court in the earlier order dated 08.05.2025 did not as such hold that the document is not relevant to the facts in issue arising in the civil suit.

6. The questions as to extent of relevance of the document and the extent to which the document can be relied are the questions that can only be decided after trial. However, once the said document in question contains some record of some money transactions between the parties, then it cannot be inferred that the said document is utterly irrelevant for the purpose of civil case between the parties. Whether the transaction as recorded in the said document is the transaction relating to the dispute in the civil suit or not, can only be adjudicated after recording of evidence and cannot be adjudicated at this stage.

7. The original of the document was admittedly filed in criminal case and against the judgment of that criminal case, now an appeal is pending before this court and the plaintiffs have obtained certified copy from the



record of criminal case, and produced it before the trial court.

8. As per Order 13 Rule 9 CPC, the party producing an document can get it from the Court. The document was filed before the criminal Court by husband of plaintiff and he can make application before the High Court to take back original of the said document.

9. As original is in existence and it can still be filed before the Trial Court, therefore, unless the High Court in pending Cr.A. nO. 487/2024 denies to supply the original to the plaintiff or her husband, there will be no question to invoke Section 60 BSA.

10. Therefore, the impugned order is set-aside, reserving liberty to the plaintiff to move application for getting original of questioned document before this Court, that may be moved by her husband.

11. The petition is disposed of.

(VIVEK JAIN)
JUDGE

MISHRA