

DIVISIONAL JUDICIAL SEMINAR - 2026

RAIPUR DIVISION



A PAPER PRESENTATION ON -

***ADMISSIBILITY AND USE OF DOCUMENTS IN
CIVIL CASES AND THE RIGHT TO OBJECTION
WITH REFERENCE TO THEIR EVIDENTIARY
CONSEQUENCES.***



PRESENTED BY- DISTRICT AND SESSIONS COURT, DHAMTARI (C.G.)

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**ADMISSIBILITY AND USE OF DOCUMENTS IN CIVIL CASES AND THE
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CONSEQUENCES**

I. INTRODUCTION:

Parties rely upon various documents in their pleadings and enlist such documents in support of their pleadings or contentions. These documents can be taken on record by the court and read in evidence only if relied upon, produced, and exhibited in accordance with rules and settled principles.

Documents occupy a uniquely privileged position in the hierarchy of civil evidence. The ancient maxim *vox audita perit, litera scripta manet* (meaning *the spoken word perishes, the written word remains*) encapsulates why courts and litigants have always reposed greater faith in documentary proof than in oral assertions.

Equally important is the procedural mechanism through which a party may challenge the admissibility of a document tendered by the opposing side which is the right to object.

In this presentation we will be discussing upon the following:

1. Concept and Legal Framework of Documentary Evidence
2. The Pillars of Admissibility
3. The Right to Object
4. Evidentiary Consequences

II. DOCUMENTARY EVIDENCE: CONCEPT AND LEGAL FRAMEWORK:

2.1 The Meaning of 'Document'

Section 2(d) of the Bhartiya Sakshya Adhiniyam, 2023 defines 'document' as *“any matter expressed or described or otherwise recorded upon any substance by means of letters, figures or marks, or any other means or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter and includes electronic and digital records.”* It encompasses not only traditional paper documents but also inscriptions and crucially in the modern era, electronic records.

The scope of the definition was confirmed and extended by the Information Technology Act, 2000. **Section 2(1)(t) of the IT Act** defines *“electronic record' as data, record or data generated, image or sound stored, received or sent in an electronic form or microfilm or computer-generated microfiche.”*

2.2 Classification of Documents

The Bhartiya Sakshya Adhiniyam, 2023 classifies documents in two analytically important ways.

First, section 74 of the Bhartiya Sakshya Adhiniyam, 2023 divides all documents into public documents and private documents. **“Public documents”** are those made by public officers in the exercise of their official functions, or forming part of official books and records. All other documents are **“Private Documents”**. The distinction matters because public documents are presumed to be authentic and may be proved by certified copies, without producing the originals, as provided under Section 76 of the Bhartiya Sakshya Adhiniyam, 2023.

Second, and of equal practical significance, the Bhartiya Sakshya Adhiniyam, 2023 distinguishes between primary and secondary evidence. **Primary evidence**, defined in Section 57 of the Bhartiya Sakshya Adhiniyam, 2023, is the document itself produced for inspection of the court. **Secondary evidence**, defined in Section 58 of the Bhartiya Sakshya Adhiniyam, 2023, includes certified copies, copies made from the original by mechanical processes, copies compared with the original, counterparts of the original, and oral accounts of the contents of the document given by a person who has seen it. The general rule under Section 59 of the Bhartiya Sakshya Adhiniyam, 2023 is that ideally primary evidence must be given; secondary evidence is permissible only where the stringent conditions laid down in Section 60 of the Bhartiya Sakshya Adhiniyam, 2023 are satisfied.

In the matter of **Vijay Uraon v. State of Chhattisgarh and Anr.** 2025:CGHC-25040-DB (Date of Judgment- 17/06/2025), the Hon'ble Division Bench of Hon'ble Chhattisgarh High Court reiterated that *"it is a settled position of law that for secondary evidence to be admitted foundational evidence has to be given being the reasons as to why the original evidence has not been furnished."*

2.3 Governing Legal Framework

Documents used in a case have to pass through three stages. They are:

1. Production of documents in Court.
2. Admittance and exhibition.
3. Proof.

Chhattisgarh Civil Rules and Orders, 1961: Chapter 8 Rule 139 of the Civil Rules and Order provides that the documentary evidence may be

conveniently grounded into three classes representing as many stages in the progress of the suit-

Class I- Documents upon which the plaintiff sues or relies.

Class II- Documents which should be produced at the first hearing.

Class III- Documents which become relevant during the course of the trial, e.g. previous statements put into contradict witnesses, documents handed to a witness to refresh his memory etc.

The admissibility of documents in civil proceedings is governed by a matrix of statutes, namely:

- (a) Bhartiya Sakshya Adhiniyam, 2023
- (b) Code of Civil Procedure, 1908:
- (c) Information Technology Act, 2000 (IT Act)
- (d) Registration Act, 1908
- (e) Indian Stamp Act, 1899

III. THE PILLARS OF ADMISSIBILITY

3.1 Relevance

The first and primary requirement for any document is relevance. Section 3 of the Bhartiya Sakshya Adhiniyam, 2023 provides that evidence may be given only of facts in issue and of facts relevant to the issue.

The Bhartiya Sakshya Adhiniyam, 2023 adopts a notably broad approach to relevance through Sections 4 to 50 of the Bhartiya Sakshya Adhiniyam, 2023, which enumerate specific categories of relevant facts. However, even within this broad framework, relevance is a threshold gate. A document that

is entirely unconnected to the pleaded facts, however authentic or important it may be in another context, cannot be admitted.

In civil proceedings, relevance must be assessed by reference to the pleadings. Facts not raised in the plaint or written statement are generally not in issue, and documents relating exclusively to such facts may be excluded as irrelevant. This underscores the importance of careful and specific pleading in civil litigation.

3.2 Authenticity

Authenticity is the proof that a document is what it claims to be. A contract purportedly signed by the defendant is only admissible and only relevant, if it is what it purports to be. Section 65 of the Bhartiya Sakshya Adhiniyam, 2023 provides that if a document is alleged to be signed or to have been written wholly or in part by any person, the signature or handwriting of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting.

Proof of authenticity may be established in several ways: by the direct evidence of a witness who has signed or written such document or who saw the document executed or signed; by comparison of handwriting or signature by a handwriting expert under Section 39 of the Bhartiya Sakshya Adhiniyam, 2023; by admission of the opposite party; or, in the case of documents more than thirty years old produced from proper custody, by presumption under Section 92 of the Bhartiya Sakshya Adhiniyam, 2023. Public documents carry a presumption of genuineness when produced as certified copies under sections 75 to 77 of the Bhartiya Sakshya Adhiniyam, 2023.

3.3 Compliance of Statutory Mandates:

Many documents must conform to specific formal requirements imposed by statute as conditions of their validity or admissibility. The two most significant formal requirements in Indian civil law are registration and stamp duty.

(i) Registration: Under Section 17 of the Registration Act, 1908, instruments of sale, gift, mortgage, lease of immovable property for a term exceeding one year, or creating any right, title, or interest in immovable property of a value exceeding one hundred rupees, are compulsorily registrable. The consequence of non-registration is provided by Section 49 of the Registration Act. Such documents shall not be admitted as evidence of any transaction affecting immovable property, nor shall they be used for any purpose in a civil suit except for collateral purpose.

(ii) Impounding: The Indian Stamp Act, 1899 mandates that a document which is required to be stamped shall not be admissible in evidence unless it is duly stamped. Section 35 of the Indian Stamp Act, 1899 provides that no instrument chargeable with duty shall be admitted in evidence unless it is duly stamped. However, unlike the registration bar, the stamp duty bar is potentially curable. Under section 35 of the Indian Stamp Act, 1899, a court may impound the document and, upon payment of duty and penalty, admit it in evidence. The court's duty to impound is mandatory and cannot be waived by the parties.

In **G.M.Shahul Hameed vs Jayanthi R.Hegde**, (2024) 7 SCR 316 (Date of Judgment- 07/07/2024) the Hon'ble Supreme Court observed:

“The legislature has reposed responsibility on the courts and trusted them to ensure that requisite stamp duty, along with penalty, is duly paid if an unstamped or insufficiently stamped instrument is placed before it for admission in support of the case of a party. It is incumbent upon the courts to uphold the sanctity of the legal framework governing stamp duty, as the same are crucial for the authenticity and enforceability of instruments. Allowing an instrument with insufficient stamp duty to pass unchallenged, merely due to technicalities, would undermine the legislative intent and the fiscal interests of the state.”

(iii) Certificate of electronic record: Sections 63 of the Bhartiya Sakshya Adhiniyam, 2023 specifically governs the admissibility of electronic records. It mandates that an electronic record (such as emails, call logs, or CCTV footage) requires a specific certificate to be legally admissible as secondary evidence which must be signed by a person in charge of the computer/device and/or by a qualified expert and the certificate must explicitly state cryptographic hash values to ensure the electronic record's integrity and act as a tamper-proof digital fingerprint.

IV. THE RIGHT TO OBJECT:

4.1 Nature and Purpose of the Right

The right to object to the admissibility of a document is a substantive procedural right possessed by every party to civil proceedings. Its purpose is twofold: to enforce the rules of evidence by keeping inadmissible material away from the court, and to protect the integrity of the fact-finding process

by ensuring that the determination of factual issues rests only on properly received material.

4.2. Timing: The Contemporaneous Objection Rule

The timing of an objection is critical. The general rule, is that an objection to the admissibility of evidence must be taken at the time of recording of evidence and marking of exhibits. A party who allows a document to be received without objection is taken to have waived any admissibility objection that could have been raised at that point.

In the matter of **R.V.E. Venkatachala Gounder vs Arulmigu Viswesaraswami & V.P. Temple & Anr.**, (2003) 8 SCC 752 (Judgment Dated 08/10/2003), the Hon'ble Supreme Court has observed with regard to raising objections:

“The crucial test is whether an objection, if taken at the appropriate point of time, would have enabled the party tendering the evidence to cure the defect and resort to such mode of proof as would be regular. The omission to object becomes fatal because by his failure the party entitled to object allows the party tendering the evidence to act on an assumption that the opposite party is not serious about the mode of proof. On the other hand, a prompt objection does not prejudice the party tendering the evidence, for two reasons: firstly, it enables the Court to apply its mind and pronounce its decision on the question of admissibility then and there; and secondly, in the event of finding of the Court on the mode of proof sought to be adopted going against the party tendering the evidence, the opportunity of seeking indulgence of the Court for permitting a regular mode or method of proof and thereby removing the

objection raised by the opposite party, is available to the party leading the evidence. Such practice and procedure is fair to both the parties.”

The procedural stages at which objections must be raised are:

1. Stage of Admission / Denial of Documents:

After the written statement is filed, if a party so desires, it may call on opposite party to admit or deny the documents relied upon by such party. Relevant Provisions: Order XI, Rule 2 (Discovery by Interrogatories), Order XII, Rule 2 (Notice to admit documents).

2. Stage of Marking Documents as Exhibits:

This is the most critical stage, occurring during the trial when a party formally produces the document in court to prove their case and each such document admitted in evidence should bear the number and title of the suit, name of the person producing the documents, the date on which it is presented and thereafter such endorsement shall be signed or initialled by the judge. Relevant Provisions: Order XIII, Rules 4 (Endorsement of documents).

3. Objections reserved to be decided at the time of Judgment:

It has been observed that at times, while recording of evidence and marking of exhibits, the objection raised by the opposite party is reserved to be decided at the time judgment which should ideally be decided at the time of objection itself.

4.3 Grounds for Objection

The principle grounds upon which a document may be objected to in civil proceedings are:

- (i) **Irrelevance:** The document does not relate to any fact in issue or relevant fact as pleaded. This is the most fundamental ground, if a document is irrelevant, no other quality can save it.
- (ii) **Lack of Authenticity:** The offering party has not laid a proper foundation establishing that the document is what it is claimed to be. The burden of proving authenticity rests on the party offering the document.
- (iii) **Best Evidence Rule / Primary Evidence:** The party may object that Secondary evidence is tendered without establishing the conditions under section 60 of the Bhartiya Sakshya Adhiniyam, 2023.
- (iv) **Absence of Mandatory legal requirements:** An absence of mandatory legal requirements is a valid and powerful ground for objecting to a document being produced or admitted in court. For example absence of mandatory certificate required by section 63 of the Bhartiya Sakshya Adhiniyam, 2023, not duly stamped document etc.
- (v) **Document falling within exclusionary rules:** such as Legally Privileged Communications, Public Interest Immunity or Hearsay.

4.4 Waivable and Non-Waivable Objections

Not all admissibility objections are capable of being waived. The law distinguishes between objections that are merely procedural in character, which can be waived by the conduct of the parties and objections that go to an absolute statutory bar, which the court must enforce regardless of the parties' wishes.

The non-waivable exclusions most frequently encountered in civil suits are concerning those documents which have not fulfilled mandatory legal requirements such as unregistered or unstamped instruments or mandatory certificate under Section 63 of the Bhartiya Sakshya Adhiniyam, 2023.

V. EVIDENTIARY CONSEQUENCES:

5.1 The Critical Distinction: Admissibility and Weight

Perhaps the most important conceptual distinction in the law of documentary evidence is that between admissibility and probative weight. A document may be admissible but of little weight; conversely, a document to which great weight might be attached may nonetheless be excluded for non-compliance with a mandatory rule.

5.2 Consequences of Admission

When a document is admitted in evidence, several important legal consequences follow.

First, it provides prima facie proof of its contents, the facts stated in it are taken as established unless contradicted by other evidence of equal or greater probative force.

Second, a party who relies on a document may in appropriate circumstances be estopped from taking a position inconsistent with its contents.

Third, admitted documents may be used as the factual basis for expert opinions under Section 39 of the Bhartiya Sakshya Adhiniyam, 2023.

Fourth, they may be used in cross-examination to challenge the credibility of witnesses.

Fifth, and most fundamentally, the court has discretion to express findings of fact based on admitted documents.

5.3 Consequences when document is not admitted in evidence

An inadmissible document is legally non-existent for the purposes of the proceedings. The court cannot rely on it in the judgment, even if it has in fact read it in the course of ruling on admissibility. It cannot be used to contradict a witness. It cannot corroborate other evidence. It contributes nothing, legally, to the case.

5.4 Production of additional evidence in Appellate Court

The power to take additional evidence on appeal is highly restricted. Order 41 Rule 27 of the Civil Procedure Code permits the appellate court to take additional evidence only where the evidence was not available at the

time of trial despite reasonable diligence, or where the trial court refused to admit evidence that ought to have been admitted.

Where a party is in possession of a document and is ordered to produce it but refuses without lawful justification, or where a party simply fails to produce a document that is within its exclusive control and that would reasonably be expected to cast light on an issue, the court may draw an adverse inference under Section 119, illustration (g), *Bhartiya Sakhsya Adhiniyam*, 2023 that the document, had it been produced, would have been unfavourable to the party withholding it. This inference, however, is discretionary and will not be drawn in every case of non-production: there must be a deliberate withholding in circumstances that call for an explanation.

VI. CONCLUSION AND SYNTHESIS OF PRINCIPLES:

The admissibility and use of documents in civil proceedings is governed by a coherent body of rules that seek to balance several competing imperatives. In that regard, the following principles emerge from the foregoing analysis as the guiding framework:

First: A document is admissible only if it satisfies all conditions simultaneously relevance, authenticity and statutory mandates. Failure of any one condition is fatal to admissibility.

Second: The right to object must be exercised at the moment the document is produced in evidence. Delay in objecting ordinarily constitutes waiver of all waivable objections.

Thirdly: Section 63 of the Bhartiya Sakshya Adhiniyam, 2023 imposes a mandatory certification requirement for all electronic records. The certificate is a condition precedent to admissibility, not a mere procedural formality.

Fourthly: The adverse inference doctrine under Section 119(g) of the Bhartiya Sakshya Adhiniyam, 2023 ensures that deliberate withholding of relevant documents is not without consequence.

The admissibility of documents in civil cases serves as the foundational bedrock of a fair trial, ensuring that judicial decisions rest entirely on reliable, verified, and legally sound records. A rigorous legal analysis reveals that admissibility is not a mere procedural formality, but a multi-tiered filter that balances substantive justice with judicial efficiency.

GEOGRAPHICAL MAP



DISTRICT - DHAMTARI (CHHATTISGARH)