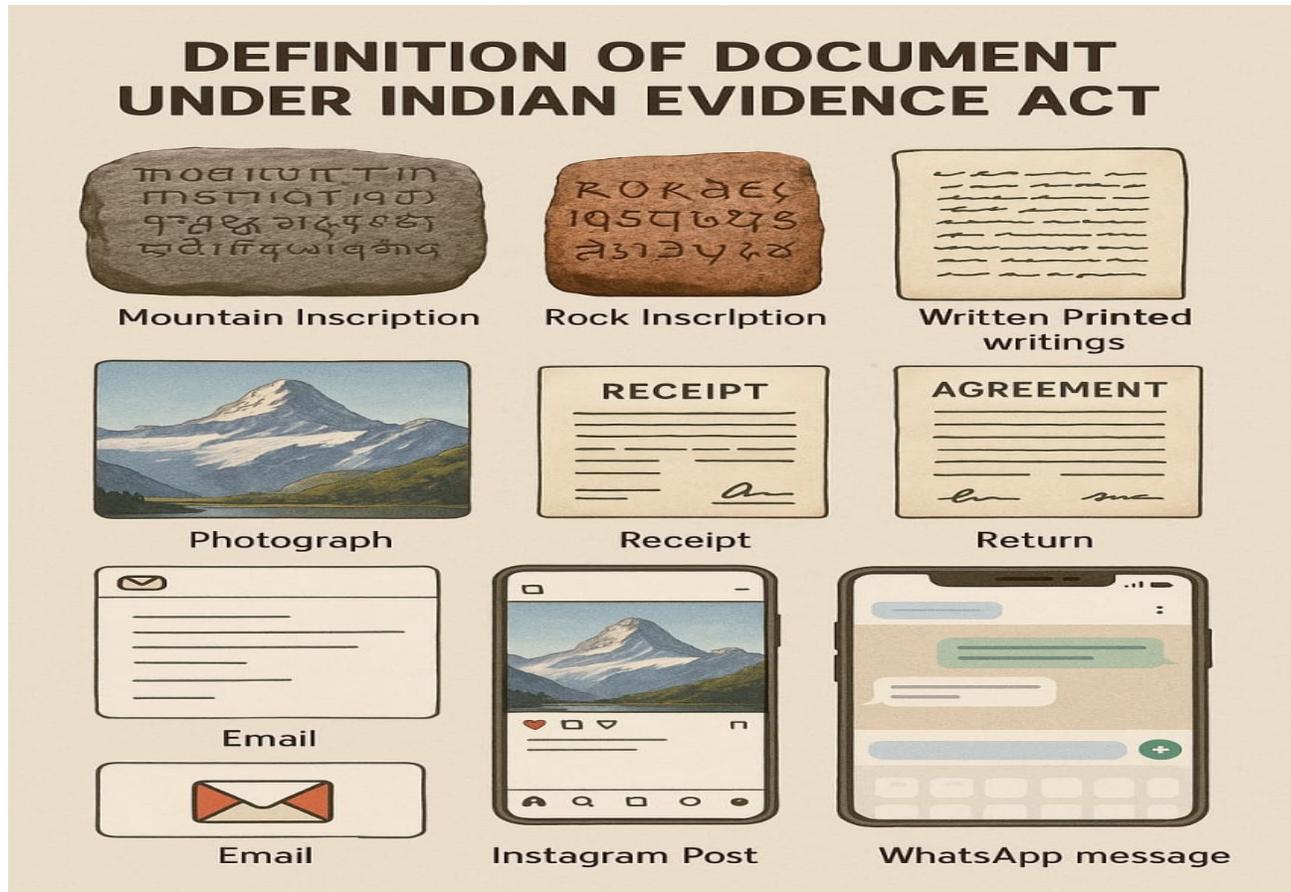


DIVISIONAL CONFERENCE-DURG DIVISION

Topic for Durg District

THE BASIC GUIDING PRINCIPLES FOR MASTERING DOCUMENT EXHIBITION AND ADMISSIBILITY: NAVIGATING OBJECTIONS EFFECTIVELY



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BACKGROUND

Exhibition of Documents as a Core Component of Fair Trial Jurisprudence

The right to a fair trial is a cornerstone of the Indian judicial system and forms a vital component of the broader principles of natural justice and constitutional guarantees under Article 21 of the Constitution of India. This right encompasses not only the opportunity to be heard but also the assurance that the legal process is carried out in a transparent, impartial, and just manner. A critical and often overlooked element of a fair trial is the proper marking and exhibiting of documents during evidence, ensuring that the court has legally admissible and properly recorded material on which to base its judgment.

When documents are not duly exhibited, it affects both parties, denying the one who leads it the benefit of its contents and depriving the opposing party of the opportunity to rebut or respond. Therefore, exhibiting documents is not merely a procedural formality; it is a duty of the court and an essential component of the right to a fair trial.

The Supreme Court has consistently underscored the importance of fair trial and due process. In *Zahira Habibullah Sheikh v. State of Gujarat (2004) 4 SCC 158*, the apex court held that a fair trial means a trial before an impartial judge, a fair prosecutor, and an atmosphere of judicial calm, where the accused, the victim, and society at large have confidence in the system. It emphasized that failure in any aspect of the trial that causes injustice constitutes a violation of

fundamental rights. Similarly, in *Mohd. Hussain @ Julfikar Ali v. State (Govt. of NCT of Delhi) (2012) 2 SCC 584*, the Supreme Court quashed the conviction of the accused as he was not given a proper opportunity to defend himself due to ineffective legal representation—reaffirming that procedural irregularities that affect the rights of the parties render the trial unfair.

In the context of documentary evidence, the proper exhibition of documents is essential to ensure that they are legally recognized and form part of the judicial record. As held in *Roop Kumar v. Mohan Thedani (2003) 6 SCC 595*, oral evidence cannot substitute a document when its existence and contents are directly in issue, and the best evidence must be produced. The court in this case stressed that procedural safeguards must be observed while admitting documents into evidence.

If a document is brought on record but is not formally exhibited, its contents cannot be relied upon, and the court cannot base its decision on such material. This was elaborated in *R.V.E. Venkatachala Gounder v. Arulmigu Viswesaraswami & V.P. Temple (2003) 8 SCC 752*, where the Supreme Court noted that marking a document as an exhibit is an act of the court and not the parties. Once a document is admitted and exhibited, its contents become part of the evidentiary record. Failure to do so deprives the party of legal benefit and hinders the opposing side from testing the validity of the document, cross-examining witnesses regarding it, or presenting counter-evidence—violating the principles of **audi alteram partem** (hear the other side), which is a fundamental rule of natural justice.

Moreover, in *Dayamathi Bai v. K.M. Shaffi, AIR 2004 SC 4082*, the Supreme Court emphasized that it is the duty of the trial court to ensure that relevant documents are properly exhibited and considered during trial, and that failure in doing so amounts to denial of justice. This clearly establishes that proper exhibition of documents is not merely a formality but an obligation on the part of the judiciary to uphold the right to a fair trial.

In conclusion, the right to a fair trial is not limited to mere representation or hearing; it extends to every procedural act that ensures justice is done and

seen to be done. The exhibition of documents during trial is an essential procedural requirement that guarantees transparency and accountability in adjudication. When a document is not marked or exhibited, it cannot be used as evidence, resulting in injustice to the party relying on it and also affecting the defense of the other party. Therefore, it is the duty of the court to ensure proper exhibition of documents, and failure to do so amounts to denial of fair trial—thus striking at the heart of natural justice and constitutional fairness as envisioned under Article 21 of the Constitution.

Best Evidence Rule

The Best Evidence Rule requires the production of original documents to prove their contents, serving as a foundational principle in the law of evidence. This rule directly supports the ideals of natural justice and the Rule of Law. Under Sections 61 to 65 of the Indian Evidence Act, this rule emphasizes that the most reliable form of evidence—i.e., the original document—must be brought before the court unless its absence is satisfactorily explained.

However, merely bringing a document to court is not enough; it must also be formally marked and exhibited to become part of the evidentiary record. This process of proper exhibition is not a technicality but a substantive procedural requirement essential for ensuring a fair trial, a right guaranteed under Article 21 of the Constitution of India. If a document relied upon by a party is not exhibited, the court cannot legally consider it, thereby denying that party the benefit of the evidence and simultaneously preventing the opposing party from rebutting it. This violates the cardinal principle of **audi alteram partem**—the right to be heard—which lies at the heart of natural justice.

Moreover, a trial that proceeds without duly exhibited documents falls short of the constitutional promise of a just, fair, and reasonable procedure under Article 21. The Rule of Law demands that legal proceedings be governed by fairness, transparency, and accountability. Therefore, the proper exhibition of documents, in adherence to the Best Evidence Rule, is not only a procedural necessity but also an ethical and constitutional duty—integral to upholding

natural justice and preserving the sanctity of the judicial process in a democratic society.

INTRODUCTION

In litigation, documents often serve as the backbone of a party's case. However, their evidentiary value is not automatic—it depends on how they are handled within the framework of procedural law. From their initial production to eventual proof, documents must pass through well-defined legal stages governed by statutory provisions and judicial pronouncements. This paper seeks to demystify the process and provide a practical roadmap for effectively navigating the complex terrain of document exhibition and admissibility.

In a courtroom setting, documents typically undergo three key stages:

1. **Production** – when the document is filed with the pleadings or during the proceedings;
2. **Exhibition** – when the court formally marks it as an exhibit; and
3. **Proof** – when its authenticity and contents are legally established.

A common misconception persists among litigants and even some practitioners—that once a document is marked as an exhibit, it is automatically accepted as valid evidence. However, the courts have consistently clarified that **exhibition is not equivalent to proof**. In *Sait Tarajee Khimchand v. Yelamarti Satyam*, AIR 1971 SC 1865 the Supreme Court emphasized this principle, which was echoed by the Delhi High Court in *Sudhir Engineering Co. v. Nitco Roadways Ltd.* 1995 SCC OnLine Del 310, where it was observed that marking documents has often become a matter of custom rather than conscious judicial application.

The admissibility of documents is frequently challenged on both **procedural** and **substantive** grounds. Procedural objections may involve improper use of secondary evidence under Sections 63–65 of the Indian Evidence Act, while substantive objections may relate to unstamped or unregistered instruments, as governed by the Indian Stamp Act or Registration Act. In *Javer Chand v. Pukhraj Surana* AIR 1961 SC 1655 and *Chilakuri Gangulappa v. Revenue Divisional*

Officer, (2001) 4 SCC 321 the courts have outlined the serious implications of filing unstamped documents and the binding nature of objections if raised at the correct stage. On the other hand, *Bipin Shantilal Panchal v. State of Gujarat* (2001) 3 SCC 1 introduced a practical judicial approach by advocating deferred rulings on objections to ensure smoother trials without compromising legality.

This paper aims to provide a structured framework to assist judicial officers in:

- Understanding the clear distinction between **marking** and **proof** of documents;
- Identifying common objections and learning how to address or preempt them—such as those based on **hearsay**, **insufficient stamp duty**, or **lack of certification**;
- Recognizing **state-specific procedural nuances**, including those relevant to Chhattisgarh;
- Evaluating the evidentiary value of **public** versus **private** documents.

By integrating statutory provisions with key judicial interpretations, this guide aspires to strengthen procedural integrity while promoting substantive justice. It encourages a balanced approach—where technicalities are respected, but not allowed to defeat the ends of justice.

Relevance for Judicial Officers

For judges, mastering the nuances of document exhibition and admissibility is vital for ensuring procedural rigor and delivering reasoned judgments. Inconsistent handling of objections or misapplication of evidentiary standards can lead to avoidable delays, appeals, or even miscarriages of justice. Moreover, judicial officers must frequently exercise discretion when faced with competing claims of procedural technicality and substantive justice. This paper seeks to support judges in exercising that discretion effectively by providing a structured understanding of:

- The distinction between marking and proving a document;
- Legally sustainable responses to objections, including those relating to stamp duty, hearsay, and certification;

- The handling of public and private documents under the Evidence Act;
- State-specific nuances, particularly those relevant to Chhattisgarh.

By integrating statutory provisions, landmark case law, and procedural practices, this resource aims to assist judges in making consistent, well-reasoned decisions on the admissibility of documentary evidence—ultimately contributing to the quality and efficiency of civil trials.

2. Fundamentals of Document Marking and Exhibition

2.1 Definition and Legal Basis

The marking of documents as exhibits occupies a unique position in civil trials. Unlike many procedural steps that are explicitly laid down by statute, the concept of "exhibits" has largely developed through courtroom practice and judicial recognition. This was aptly noted by the Delhi High Court in *Sudhir Engineering Company v. Nitco Roadways Ltd.*, **1995 SCC OnLine Del 310** where it was held that the practice of marking exhibits has evolved from necessity, not legislation.

Exhibit marking, at its core, is an administrative function that helps establish a clear and consistent evidentiary record. When a document moves from being part of the pleadings or case file to being treated as evidence, it is formally identified using a system of alphanumeric labels. Although this may appear to be a routine process, it holds significant procedural and evidentiary importance. The Supreme Court in *Baldeo Sahai v. Ram Chander* **1931 0 Supreme (Lah) 359** clarified that marking a document is merely the first step in its evidentiary journey, not a confirmation of its truth or admissibility.

2.2 Purpose and Procedure

For judges, exhibit marking serves three primary purposes in trial proceedings:

- 1. Identification** – It provides a clear reference for each document relied upon.
- 2. Organization** – It structures the evidentiary record and facilitates smoother conduct of trial.

3. Preservation – It ensures that records are in proper order for scrutiny at the appellate stage.

The procedure for marking exhibits is laid down in **Order XIII Rule 4 of the Civil Procedure Code**, which requires the following details to be endorsed on each exhibited document:

- Case number and title
- Name of the party producing the document and the date of submission
- Signature or initials of the presiding judge

This endorsement acts as the formal gateway for a document to be considered during trial. However, as emphasized by the Lahore High Court in *Ferozchin v. Nawab Khan 1927 LawSuit(Lah) 1*, this procedural admission does **not** mean that the contents of the document are accepted as true or proved. The court in that case drew a sharp line between **marking for identification** and **proving a document's contents**, a distinction that remains crucial in present-day trials.

Although procedural nuances may vary slightly across jurisdictions, the fundamental principles remain the same. The process strikes a balance between efficient trial management and the need for judicial discretion in assessing the admissibility and probative value of each document.

3. Proof of Documents: Critical Distinctions

3.1 Marking vs. Proof

A common misunderstanding—even within judicial proceedings—is the belief that once a document is marked as an exhibit, it stands proved. Judicial precedents, however, have consistently maintained that **marking and proof are two entirely different stages**.

Marking a document under **Order XIII Rule 4 CPC** is a procedural act—it signals that the court is willing to consider the document, but it does **not** mean that the court accepts its truth. In *Sait Tarajee Khimchand v. Yelamarti Satyam AIR 1971 SC 1865*, the Supreme Court clearly held that the mere exhibition of a document

does not amount to proof of its contents. To establish its evidentiary value, the court must examine:

- Whether the document is **genuine and duly executed**;
- Whether its **contents are truthful**;
- Whether it complies with **relevant provisions of the Evidence Act**, such as sections on attestation, registration, or stamp duty.

Ferozchin v. Nawab Khan 1927 LawSuit(Lah) 1 reinforces this principle, holding that the marking of a document does not create any presumption in its favor. Instead, it marks the starting point for judicial scrutiny through **cross-examination, corroboration, and statutory compliance**.

For judicial officers, this distinction is essential in evaluating objections and in framing proper findings. It ensures that procedural compliance is not mistaken for evidentiary proof and that each document is weighed with due legal rigor.

3.2 Requirements for Admitting Secondary Evidence

When primary documents are lost, destroyed, or otherwise unavailable, the law permits the use of **secondary evidence**, but only under strict conditions. **Sections 63 to 65 of the Indian Evidence Act** lay out the framework for such exceptions to the best evidence rule.

Before allowing secondary evidence, the judge must ensure:

1. Establishment of Unavailability

The party must prove why the original cannot be produced. Acceptable grounds include:

- **Loss or destruction** (with sincere attempts to locate the original)
- **Possession by the opposite party**, who fails to produce it despite notice
- **Practical or legal impossibility** of producing the original

2. Permissible Forms of Secondary Evidence

Depending on the nature of the document, acceptable forms include:

- **Certified copies** (for public documents)
- **Photocopies or mechanical reproductions**
- **Oral accounts** by someone who saw the original (only in limited situations)

The Supreme Court in *Jagmail Singh v. Karamjit Singh (2020) 17 SCC 465* laid down that merely stating that the original is unavailable is not enough. The court must be satisfied that the party made **diligent and genuine efforts** to locate or produce the original. This ensures that secondary evidence is used only when absolutely necessary.

Similarly, in *H. Siddiqui v. A. Ramalingam (2011) 4 SCC 240*, the Court cautioned that secondary evidence should not be used as a **shortcut**. The party must offer clear justification, and the court must assess whether the original could have reasonably been produced. These safeguards preserve the integrity of the evidentiary process

4. Objections Framework

Understanding and managing objections related to documents is essential for judges, as it directly impacts the fairness and efficiency of trial proceedings. This section outlines the types of objections typically encountered during document exhibition and proof, and explains the appropriate judicial approach to handle them.

4.1 Classification of Objections

Objections to documentary evidence broadly fall into two categories:

A. Substantive Inadmissibility

These are objections that go to the very root of a document's legal admissibility. If sustained, they exclude the document from consideration altogether. Three primary grounds include:

- 1. Statutory Prohibitions:** Certain documents are inadmissible due to express statutory bars. For example, confessional statements made to police officers are inadmissible under Section 25 of the Indian Evidence Act, as reaffirmed by the Supreme Court in *State of U.P. v. Deoman*. The rationale lies in safeguarding against coercion.
- 2. Unregistered Documents Affecting Immovable Property:** Documents that require registration under Section 17 of the Registration Act but are not registered are generally inadmissible for affecting property rights. The Supreme Court in *K.B. Saha v. Development Consultant Ltd. (2008) 8 SCC 564* held that although such documents may not affect title or rights in property, they can sometimes be looked at for collateral purposes under the proviso to Section 49.
- 3. Irrelevant Evidence:** Documents that have no bearing on the facts in issue are inadmissible under Section 5 of the Evidence Act. The Madras High Court's ruling in *Roman Catholic Mission v. State of Madras AIR 1966 SC 1457* is instructive—genealogical records were excluded because the disputed issue did not relate to ancestral lineage.

B. Procedural Defects in Mode of Proof

These objections do not question the document's inherent admissibility, but rather how it has been presented in evidence. They include:

- 1. Defective Secondary Evidence:** Documents presented as copies must fulfill the requirements under Sections 63–65 of the Evidence Act. The Supreme Court in *H. Siddiqui v. A. Ramalingam (2011) 4 scc 240* made it clear that a mere claim of loss of the original is not enough. There must be concrete evidence of efforts made to find or obtain the original.
- 2. Improper Certification of Electronic Records:** Electronic evidence must comply with Section 65B. As noted in *Shafhi Mohammad v. State of Himachal Pradesh 2018 5 scc 311*, the absence of a valid certificate can render such evidence inadmissible unless certain exceptions apply.

3. Stamp Duty Deficiency: Documents liable for stamp duty must be duly stamped. Failure to do so invites procedural objections. In *R.V.E. Venkatachala Gounder (2003) 8 SCC 752*, the Bombay High Court clarified that such objections must be raised promptly, or they may be waived.

4.2 Timeliness and Waiver of Objections

The timing of an objection is just as critical as its substance. Courts have developed clear rules on when objections must be raised and the consequences of delay.

A. Procedural Objections: The Contemporaneous Rule

For procedural defects, objections must be raised at the moment the document is tendered. This principle was laid down by the Privy Council in *Gopal Das v. Thakurji AIR 1936 All 422*, establishing what is now known as the “contemporaneous objection rule.” Its purpose is twofold:

- It prevents surprise or "trial by ambush."
- It gives the opposing party an opportunity to rectify the procedural defect, such as by bringing in proper evidence.

If not raised at the appropriate time, these objections are deemed waived and cannot be revived even in appeal, as affirmed in *Sarkar on Evidence*.

B. Stamp Act Objections: Legal Estoppel Under Section 36

Stamp duty-related objections must also be raised at the time of document admission. The Supreme Court in *Javer Chand v. Pukhraj Surana AIR 1961 SC 1655* interpreted Section 36 of the Indian Stamp Act to mean that once a document is admitted without objection, its admissibility on account of inadequate stamping cannot be challenged later. This rule ensures procedural finality and judicial economy.

C. Deferred Adjudication in Complex Cases

Recognizing the complexity of some evidentiary objections, the Supreme Court in ***Bipin Shantilal Panchal*** introduced a pragmatic approach. Judges may provisionally admit a document and defer the ruling on its admissibility until the final judgment. However, this discretion is limited to objections involving intricate questions of fact or law.

Later cases, such as ***Lachmi Narain Singh AIR 2021 SUPREME COURT 3873***, clarified that this approach is not meant for routine objections. Basic procedural issues like lack of certification or defective proof must still be dealt with immediately.

Judicial Relevance

For judges, distinguishing between these categories and applying the correct procedural response ensures that justice is delivered efficiently, fairly, and in accordance with the law. Mismanaging objections—by admitting inadmissible documents or allowing delayed objections—can result in retrials or appellate reversals, thereby undermining the entire adjudicatory process.

This structured objection framework equips judges to navigate evidentiary challenges with precision, balancing legal rigour with procedural pragmatism.

NAVIGATING OBJECTIONS EFFECTIVELY

5. Stamping of Documents

Proper stamping of documents is not merely a fiscal requirement—it plays a crucial role in determining their admissibility and evidentiary value in judicial proceedings. The Indian Stamp Act, 1899, serves a dual purpose: ensuring government revenue and upholding the integrity of the judicial process. Courts must be vigilant in applying these provisions, as lapses can affect both legal outcomes and procedural regularity.

5.1 Legal Framework: Three Pillars of the Stamp Act

The Indian Stamp Act operates through three key mechanisms that judges must navigate carefully:

1. Pre-Admission Scrutiny (Section 33)

Before any document is admitted into evidence, courts and public officers are statutorily required to examine whether it is properly stamped. This obligation is both **ministerial and judicial** in nature, as highlighted by the Bombay High Court in *Chief Controlling Revenue Authority v. Maharashtra Sugar Mills* AIR 1948 BOMBAY 254

. The process involves:

- Checking the document's **facial compliance** with stamping requirements;
- No adjudication on **validity or genuineness** of the document at this stage;
- If deficiently stamped, the document **must be impounded** and forwarded to the Collector for further action.

2. Evidentiary Bar (Section 35)

Section 35 lays down an **absolute bar** against using unstamped or inadequately stamped documents in any kind of proceeding. This prohibition:

- Applies **regardless of the document's relevance, authenticity, or probative value**;
- Extends beyond courts to **quasi-judicial and administrative proceedings**;
- Even **collateral use** of such documents is prohibited, as reaffirmed in *Barium Chemicals v. Vishwa Bharti Mining(Civil Appeal no.3348/2002)*.

This evidentiary embargo is stricter than most procedural exclusions, and cannot be bypassed by arguments of equity or necessity.

3. Remedial Mechanism (Section 35 Proviso)

However, the law provides a **corrective process**:

- Parties may **pay the deficient stamp duty** along with a penalty (up to ten times the shortfall);
- The Collector then **adjudicates** the proper duty payable;

- The Act generally contemplates **timely compliance**, usually within 90 days of impounding.

Once the deficiency is made good, the document can be read in evidence. This reflects a balance between revenue protection and access to justice.

5.2 Key Judicial Interpretations

Over the years, courts have elaborated on these provisions, adding clarity and nuance:

A. Chilakuri Gangulappa v. Revenue Divisional Officer,[2001] 2 S.C.R. 419

The Supreme Court endorsed the “**conditional admission**” doctrine:

- Courts may **provisionally accept** a document while awaiting stamp duty compliance;
- Once duty and penalty are paid, the document stands **retrospectively validated**;
- The distinction was emphasized between **admissibility** and the **weight** of the document in evidence.

B. Jupudi Kesava Rao v. Pulavarthi Venkata Subbarao, AIR 1971 SC 1070

This case laid down clear restrictions:

- **Secondary evidence** of unstamped documents is inadmissible;
- **Photocopies or duplicates** cannot be used to bypass stamping requirements;
- The bar under Section 35 applies to **all judicial uses**, not just to primary evidence.

C. Barium Chemicals v. Vishwa Bharti Mining(Civil Appeal no.3348/2002)

This judgment confirmed the **non-negotiable nature** of stamping compliance:

- Unlike unregistered documents (which may be used for collateral purposes), **unstamped documents are barred absolutely**;

- Even **indirect or collateral purposes** do not allow their use;
- It reinforced the divide between “**proof of the document’s execution**” and “**proof of its contents**”.

Judicial Takeaway

For judicial officers, it is essential to strike the right balance: ensuring that fiscal obligations are strictly enforced, without allowing technicalities to obstruct substantial justice. Courts must maintain vigilance in applying Sections 33 and 35, while judiciously allowing corrective mechanisms when appropriate. Stamping compliance is not a mere administrative formality—it is a statutory prerequisite for the validity of many documents. Understanding this framework ensures both procedural rigour and the smooth administration of justice

6. Grounds for Inherent Inadmissibility

Certain documents, by their very nature, cannot be admitted into evidence. These exclusions are rooted in statutory mandates and judicial interpretations that uphold the integrity of the trial process and the administration of justice.

6.2 Statutory Prohibitions

Certain documents or statements are excluded from evidence not on the basis of relevance but due to express statutory bars:

1. Statements under Section 161 CrPC

These are barred from being used as substantive evidence. Their use is limited to:

- Contradicting a prosecution witness under Section 145 of the Evidence Act.
- Verifying dying declarations under special rules (*Tahseen v. State of Kerala* illustrates this limited evidentiary role.)

2. Defective Documentary Copies In *Jainab Bibi Saheb v. Hyderally Saheb*, the Calcutta High Court held that copies of documents that do not meet statutory requirements cannot be legitimized through consent or waiver.

This gave rise to the principle of "inherent incompetence" — such documents are fundamentally inadmissible, regardless of the parties' agreement.

6.3 Non-Registration and Its Impact

The Registration Act plays a pivotal role in regulating the admissibility of documents dealing with immovable property:

1. Collateral Purpose Exception: Scope and Judicial Test

The doctrine of **collateral purpose** provides a limited exception to the otherwise strict rule of inadmissibility of unregistered documents affecting immovable property under Section 49 of the Registration Act, 1908. This exception has been the subject of significant judicial refinement. A landmark interpretation was offered by the Hon'ble Supreme Court in **S. Kaladevi v. V.R. Somasundaram & Ors., (2010) 5 SCC 401**, which serves as the touchstone for admissibility in such cases.

The Court in Kaladevi acknowledged that while the Registration Act imposes a statutory bar on admitting documents that are compulsorily registrable but unregistered, this bar is not absolute. Where the document is not relied upon to prove the transfer or creation of rights in immovable property, it may still be admissible for a collateral purpose, subject to a strict three-pronged test:

1. The Purpose Must Be Collateral and Unrelated to Title or Interest

The key condition is that the document **must not be relied upon to prove the very transfer, assignment, or extinguishment of rights in immovable property**. If the primary objective is to assert ownership, possession, or creation of interest, the bar under Section 49 becomes absolute. However, if the purpose is **independent of title**, courts may consider the document.

Examples of permissible collateral purposes include:

- **Proof of the factum of possession** at a certain point in time.

- **Proof of payment of consideration** to establish a transaction's commercial context.
- **Proof of a family settlement** already acted upon by the parties.
- **Refuting a plea of forgery or denial of execution**, not to enforce the terms but to rebut a claim.

In *Kaladevi*, the appellant sought to rely on an unregistered sale agreement to disprove the claim of forgery rather than to assert ownership. The Supreme Court upheld its admissibility, stressing that the document's use was not to enforce its substantive terms.

2. The Document Must Possess Independent Evidentiary Value

The Court emphasized that the document must serve a legitimate evidentiary function on its own, unrelated to the registration requirement. In other words, the document must not merely be incidental to the transaction of transfer, but should stand on its own in relation to the collateral matter.

This principle ensures that courts are not indirectly validating or enforcing unregistered instruments under the guise of collateral usage. Thus, the collateral purpose must have:

- **A factual bearing on the issue at hand**
- **Legal relevance under the Indian Evidence Act**
- **A limited and clearly demarcated evidentiary role**

For instance, using an unregistered lease deed **not to enforce tenancy**, but to **establish duration of stay** for computation of damages, has been permitted by courts.

3. The Use Must Not Indirectly Confer Rights in Immovable Property

Perhaps the most significant safeguard is that **courts must be vigilant against indirect enforcement of rights through collateral claims**. Even when not explicitly seeking title, if the effect of relying on the document would be to **validate or operationalize a transfer of immovable property**, the court must reject

it. This principle operates as a **substantive bar**, ensuring that parties do not circumvent statutory requirements under the guise of procedural admissibility. It aligns with the legislative intent behind the Registration Act: to ensure transparency, prevent fraud, and maintain public records of property transactions.

In **Kaladevi**, the Court drew a sharp distinction between **using a document as evidence of a fact** (e.g., possession or relationship) and **using it as a means to establish a legal right** in property. Only the former is permissible under the collateral purpose doctrine.

A Narrowly Carved Exception

The **collateral purpose exception**, though recognized, remains **narrow and closely guarded**. Courts apply it with caution, and only when:

- The use of the document does not offend Section 17 (compulsory registration)
- The reliance is not for asserting title or interest
- The evidentiary purpose is clearly collateral and independently valid

In judicial practice, this exception has been allowed **sparingly**, and only when its invocation does not undermine the very scheme of **formal registration** and the public policy behind it.

Emerging Operational Constraints on Collateral Purpose Doctrine

While the collateral purpose exception provides a narrow escape from the bar on unregistered documents, courts have increasingly recognized the risk of its misuse. As a result, judicial interpretations have imposed structured limitations on the scope and applicability of this doctrine, giving rise to what may be termed "operational constraints." These constraints aim to prevent parties from indirectly circumventing mandatory registration provisions under the Registration Act.

1. Time-Limited Invocation of Collateral Purpose (DLF Commercial v. Sohumi Shah CS(OS) No.1236/2012).

In this landmark case, the Court held that the collateral purpose doctrine

cannot be invoked indefinitely. If a document required to be registered under Section 17 of the Registration Act is not registered within the stipulated period (usually four months), its use even for collateral purposes must be justified with cogent reasons and must be timely. Delayed reliance on such documents, particularly when raised at a belated stage of trial, risks being rejected on grounds of procedural fairness and evidentiary integrity.

Judicial Rationale: The Court emphasized that collateral use must not become a backdoor to validate unregistered documents after the expiry of the registration window. The doctrine, being an exception, must be construed narrowly and applied in a manner that does not defeat the larger legislative intent.

2. Relaxed Norms for Family Settlements — With Caution Family arrangements or settlements often involve informal documentation, particularly among joint Hindu families. Recognizing the sensitive and private nature of such arrangements, courts have shown a degree of flexibility.

- **In Kale and Others v. Deputy Director of Consolidation [1976] 3 S.C.R. 202**, the Supreme Court held that a memorandum recording a past family settlement does not require registration.
- However, if the document creates or extinguishes rights in immovable property for the first time, registration is compulsory.

Current Position: Though courts adopt a liberal approach in such cases to promote harmony and avoid prolonged family disputes, this relaxation is conditional. The parties must demonstrate that:

- The settlement was voluntarily arrived at
- The document merely records a pre-existing arrangement

- No fresh rights in immovable property are being created or transferred

Where these conditions are not met, the document must undergo formal registration to be admissible, even for collateral purposes.

1. Extension of Registration Norms to Digital Instruments

The Court unequivocally held that digitally executed documents affecting rights in immovable property remain subject to the registration requirements under the Registration Act, 1908. It emphasized that:

- The form of the document—physical or digital—does not alter the substance of the legal transaction.
- Any instrument that creates, declares, assigns, limits or extinguishes any right, title or interest in immovable property must be registered, irrespective of whether it is executed on paper or digitally, including blockchain-based records.

This position aligns with the statutory objectives of:

- Ensuring traceability and legal sanctity of property dealings
- Preventing evasion of stamp and registration duties through technological proxies
- Maintaining public record integrity in the digital age

The Court clarified that blockchain registration is not a substitute for statutory registration under the Registration Act unless recognized under enabling legislation.

Balancing Innovation and Statutory Compliance

The 2023 Delhi High Court judgment serves as a judicial compass for navigating the complex terrain of digital documentation in evidentiary law. It reinforces the principle that technology cannot be used as a means to bypass statutory mandates, especially in matters relating to immovable property. At the same time, it opens a cautiously optimistic pathway for acknowledging and

utilizing digital records, not as substitutes for registration, but as supporting evidence in appropriately limited contexts.

This decision reflects a judicial willingness to evolve with technological advances, while remaining firmly anchored in the fundamental principles of registration, authentication, and evidentiary integrity.

7. Procedural Considerations in Document Admissibility

As documentary evidence becomes increasingly diverse and complex, courts must balance procedural integrity with practical efficiency. This section explores how Indian courts have evolved procedural mechanisms to address evidentiary objections—particularly when they cannot be resolved immediately.

7.1 Deferred Objections: Evolving Judicial Strategy

The principle of *deferred objections* has emerged as a practical solution for managing objections without interrupting the trial flow. The Supreme Court’s landmark judgment in **Bipin Shantilal Panchal v. State of Gujarat** laid the foundation for this practice. It introduced a pragmatic balance: allowing evidence to be tentatively marked and used in trial while reserving the right to decide its admissibility at a later stage.

1. Tentative Marking Protocol: A Balanced Approach

Under this method, courts provisionally admit documents while maintaining a clear record of pending objections. This avoids repeated interruptions during trial. For example, the **Delhi Commercial Court’s 2023 Practice Directions** prescribe:

- Marginal notations or docket entries for all conditionally marked documents
- A fixed timetable for resolving objections before final arguments
- A clear articulation of the objection’s nature and legal basis

This framework ensures transparency and procedural accountability while keeping the trial on schedule.

2. Circumstances Warranting Deferred Adjudication

Courts now recognize several situations where objections can—and should—be deferred:

- **Technical Verification:** When objections hinge on forensic or technical analyses such as signature comparison, digital watermarking, or metadata examination
- **Bulk Exhibits:** In large-scale commercial disputes or class-action suits involving voluminous documents
- **Cross-border Authentication:** Where the verification of foreign documents involves protocols under treaties like the Hague Convention

This flexible approach aligns with the court’s need to adapt to modern evidentiary demands while preserving parties’ rights.

3. Final Determination of Objections

Courts must resolve deferred objections before delivering judgment. The **Bombay High Court in Commercial Suit No. 212/2022** suggested best practices:

- Holding a separate evidentiary hearing for deferred objections
- Recording clear findings on each objection in the final judgment
- Assigning appropriate evidentiary weight based on the outcome (i.e., full, partial, or no admissibility)

This ensures that conditionally marked documents are not assumed to have full evidentiary value without scrutiny.

8. Exhibition of Documents which falls in the category of “ELECTRONIC EVIDENCE”

It is well known that **“all facts, except the contents of documents or electronic records, may be proved by oral evidence”**. The term 'exhibit' in legal parlance refers to any document or material object formally produced and marked as evidence during the course of a trial. The process of exhibiting documents in court is governed by both substantive and procedural rules, primarily laid out in

the Indian Evidence Act, 1872, and the Code of Civil Procedure, 1908, as well as the Code of Criminal Procedure, 1973. Exhibits play a pivotal role in shaping the trajectory of litigation, as they serve as material proof of the facts asserted by the parties.

With the proliferation of digital communications and transactions, electronic records have become indispensable in litigation. Their admissibility is governed by Sections 65A and 65B of the Indian Evidence Act. Section 65A states that electronic records must be proved in accordance with Section 65B, which mandates a **certificate** to be produced along with the record.

The certificate must:

1. Be signed by a person occupying a responsible official position;
2. State the particulars of the device involved in the production of the electronic record;
3. Confirm the integrity and authenticity of the data;
4. Be compliant with the requirements laid down in Section 65B(4).

This certificate serves as a condition precedent for the admissibility of electronic records. In *Anvar P.V. v. P.K. Basheer (2014) 10 SCC 473*, the Supreme Court clarified that the certificate under Section 65B(4) is mandatory, and electronic evidence without such certification is inadmissible. This position was reaffirmed in *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal (2020) 7 SCC 1.*, where the Court further held that if the electronic evidence is collected from a third party (e.g., a service provider), then the certificate must be produced by the person in control of that device.

It is important to distinguish between original electronic records stored on the device (such as an original pen drive or hard disk) and printed or copied versions of the same. The latter requires the certificate, while the former may be admissible if produced in court in its original form.

Electronic exhibits also include audio-video recordings, emails, WhatsApp chats, CDRs (Call Detail Records), and metadata. Each type of digital evidence

presents its own challenges in terms of hash verification, device identification, chain of custody, and reliability

8.1 Tape Recorded Conversation

In **Ram Singh Vs. Col Ram Singh 1986 AIR (SC) 3**, the Hon'ble Supreme Court has laid down the following conditions for admissibility of Telephonic conversations as evidence

(a) The voice of the person alleged to be speaking must be duly identified by the maker of the record or by others who knew it. (b) Accuracy of what was actually recorded had to be proved by the maker of the record and satisfactory evidence, direct or circumstances had to be there so as to rule out possibilities of tampering with the record. (b) The subject matter recorded had to be shown to be relevant according to rules of relevancy found in the Evidence Act." (Ephes ours) Thus, so far as this Court is concerned the conditions for admissibility of a tape recorded statement may be stated as follows:

1. The voice of the speaker must be duly identified by the maker of the record or by others who recognise his voice. In other words, it manifestly follows as a logical corollary that the first condition for the admissibility of such a statement is to identify the voice of the speaker. Where the voice has been denied by the maker it will require very strict proof to determine whether or not it was really the voice of the speaker. The accuracy of the tape recorded statement has to be proved by the maker of the record by satisfactory evidence - direct or circumstantial. Every possibility of tampering with or erasure of a part of a tape recorded statement must be ruled out otherwise it may render the said statement out of context and, therefore, inadmissible. The statement must be relevant according to the rules of Evidence Act. The recorded cassette must be carefully sealed and kept in safe or official custody. The voice of the speaker should be clearly audible and not lost or distorted by other sounds or disturbances.

While deciding the evidentiary value of tape recorded conversation, in

Yusufalli Esmail Nagree v. State of Maharashtra [1967] 3 S.C.R. 720 it has been reiterated that if a statement is relevant, an accurate tape record of the statement is also relevant and admissible. The time and place and accuracy of the recording must be proved by a competent witness and the voices must be properly identified. One of the features of magnetic tape recording is the ability to erase and re-use the recording medium. Because of this facility of erasure and re-use, the evidence must be received with caution. The court must be satisfied beyond reasonable doubt that the record has not been tampered with.

The tape was not sealed and was kept in the custody of Mahajan. The absence of sealing naturally gives rise to the argument that the recording medium might have been tampered with before it was replayed.

In **N. Sri Rama Reddy, etc. v. V.V.Giri [1971] 1 S.C.R at page 399**, it is further observed as follows: "Having due regard to the decisions referred to above, it is clear that a previous statement, made by a person and recorded on tape, can be used not only to corroborate the evidence given by the witness in Court but also to contradict the evidence given before the Court, as well as to test the veracity of the witness and also to impeach his impartiality.

8.2 Proof of Call Data Record:

A Call Data Record is a detailed record of SMS and calls that are sent and received by a subscriber of a service provider. The main benefits we can reap from Call Detail Record are identifying the suspect's day location, night location, handset details, maximum contact number, date, time, tower location at the time of occurrence of the offence, coordinates of his movement etc., It can also disseminate the details regarding call duration, connection status, source number, destination number, accurate identification of telephone exchange, unique sequence number identifying the record, the route by which the call entered the exchange, the route by which the call left the exchange.

Regarding the proof and admissibility of mobile phone call records, it needs to be proved by producing certificate under Section 65-B of Evidence Act. In Bala

Saheb Gurling Todkari Vs. State of Maharashtra (2015 SCC Online Bom 3360) it has been held in Para 36 that absence of certificate would render the CDR inadmissible in law. Being inadmissible it cannot be considered. However, in State of NCT of Delhi Vs Navjot Sadhu AIR 2005 SC 3820, the accused side raised a submission that no reliance can be placed on the mobile phone call records , because the prosecution has failed to produce the relevant certificate under section 65-B of the Evidence Act, The Supreme Court has concluded that a cross examination of the competent witness acquainted with the functioning of the computer during the relevant point of time and the manner in which the printouts of the call records were taken was sufficient to prove the call records.

In Sonu Vs State of Haryana (2017)8 SCC 517 it has been held in Para 32 by the Supreme Court that an objection that CDRs are unreliable due to violation of procedure prescribed in section 65-B (4) cannot be permitted to be raised at the appellate stage as the objection relates to the mode or method of proof. In Union of India Vs. Ravindra Desai, the Hon'ble Supreme Court has also held in Para 22 that non production of the certificate under Section 65-B on an earlier occasion was a curable defect. Similarly, in the case of State of Karnataka Vs M.R. Hiremath reported in 2019 (7) SCC 515 it has been held that the non-production of a certificate under Section 65-B of the Indian Evidence Act at a prior stage is a curable defect.

Proof of CCTV Footage: Walter Bruch is considered to be the inventor of the CCTV Camera. There are 3 types of CCTV.

Firstly, Standalone which is self contained camera having inbuilt memory device.

Secondly, Wired, which has a wire to connect a camera and to a recorder.

Thirdly, IP which uses Wi-Fi to communicate with recorder or uses the cloud storage facility whereby the footage can be viewed from anywhere with an internet connection.

CCTV camera has a CCD Sensor (Charge Coupled Device) which converts lights into an electronic signal and which is then converted into a video signal recorded or displayed in screen. CCTV works by camera or cameras taking constant sequence of images that are then transmitted by cable or wirelessly to the recording device and then on to the display monitor, which enables the individual to see the sequence of images as video footage. In criminal trial, the evidence of CCTV footage assumes very much importance. It helps to prove the presence of the accused in the scene of crime. It is equal to ocular evidence.

Though CCTV footage is the best evidence, the mode and manner of proof is always a challenge. As held in TOMASO BRUNO & ANR V/S STATE OF U P 2015 Law suits(SC) 54, CCTV footage is a strong piece of evidence. In K .RAMAJAYAM @ APPU V/S INSPECTOR OF POLICE 2016 Law suits(Mad)136 at Para 31, the Hon'ble Madras High Court has observed that it is axiomatic that CCTV footage does not suffer ills and human fragilities, and they are indubitably superior to human testimony of facts. One has to understand the science of CCTV Recordings in the light of the Information and Technology Act, 2000, for the purpose of its optimum usage as evidence in the Court of Law. Today, the physical images captured by the camera is converted by a computer software into information, capable of being stored as data in electronic form and the stored data is electronic record. It has been further observed in Para 32 that the images captured by the cameras were transferred to a Digital Video Recorder (DVR), which is a rectangular box, through wires. DVR has a computer programmed circuit to receive the images from the four cameras and convert them into electronic form in binary and store them in the hard disk. The software is so programmed that it can not only receive and store, but also play back the images on a screen, be it a monitor, Television screen, or Cinema Screen. The information so stored are not tangible information for the Court to inspect and see with its naked eyes. The DVR is an electronic record within the meaning of Section 2(t) of the Information Technology Act, 2000, as it stores data in electronic form and is also capable of output. Regarding the procedure to be followed to ascertain the integrity of CCTV footage, the Bombay High Court has given certain directions in the case of **Vaijinath Vs State of Maharashtra 2019 SCC**

Online Bom 1357. A CCTV footage must also be proved by producing a certification under section 65-B of the Evidence Act.

8.3 Proof of Email: Email is the most often produced in a court of law. Generally, email is not sent directly from the sender to the receiver but it uses a 'store and forward method'. Because if the user is not online, then the email may get lost and hence internet service provider store the mail, till the recipient is online and retrieves it. A computer dedicated to the transfer of email is called a mail server. Microsoft Exchange, Gmail, yahoo mail are some of the known examples. Every email service provider has its own dedicated email server which transfers email from the sender, firstly the destination address is verified. If the destination address also belongs to the same email service provider then the mail server directly sends it to the recipient's mail box. However, if the recipient's email service provider is different than the sender's email server, it will first find the recipient's email server and would send it to that email server. The receiver's email server then pushes the email to the recipient. Such being the working of email system, In Smt bharathi V Rao Vs. SriPrmod G. Rao, MANU/KA/3242/2013, it has been held that email comes under the definition of electronic record under section 2(t) of IT Act and is admissible in evidence.

In **Abdul Rahman Kunji vs. The State of West Bengal 2016 CrLJ 1159** it has been further held that an email downloaded and printed from the email account of the person can be proved by virtue of section 65-B r/w 88A of Evidence Act. The testimony of the witness to carry out such a procedure to download and print the same is sufficient to prove the electronic communication. It is further held in **Babu Ram Aggarwal & Anr v/s Krishan Kumar Bhatnagar & ors. 2013 Law Suit (Delhi 422 at Para 19)** that as per Section 65B of the The Indian Evidence Act, 1872, for such emails to be proved, it has to be proved/established that the computer during the relevant period was in the lawful control of the person proving the email; that information was regularly fed into the computer in the ordinary course of the activities; that the computer was operating properly and the contents printed on paper are derived from the

information fed into the computer in the ordinary course of activities and a certificate identifying the electronic record has to be proved. Section 88-A of the Evidence Act provides for a presumption about electronic messages. It is necessary to understand that the presumption merely states that the message received by the addressee is the same, which was fed into the originator's computer for transmission.

As held by **Madras High Court, in S. Karunakaran Vs Srileka 2019 SCC Online Mad 1402**, the court shall not make any presumption as to the person by whom such message was sent. Therefore, it is clear that mere filing of email does not give rise a presumption that it is sent by the originator. Similarly, the High Court of Punjab and Haryana, in **Nidhi Kakka vs Munish Kakkar 2011 SCC On line P&H 2599** has held in Para 6 that the correctness and exact reproduction in print out version of the mail could still be issues in the cross examination and the court will have to consider whether the text could have been altered or morphed.

8.4 Proof of Hard Disc: Hard disc is a magnetic storage medium for a computer. It is a non-volatile storage device. Non volatile refers to storage devices that maintain stored data when turned off. The word 'data' includes not only the active memory of the computer, but even the subcutaneous memory like Hard Disc. Hard Disc is not merely a physical object, but a document within the meaning of Section 3 of the Evidence Act. Explaining the position of law, about hard disc, mirror image and subcutaneous memory, the Delhi High Court in the case of Dharambir; Jagdish Chandra; Ajay Khanna; Anand Mohan Sharan Vs Central Bureau of Investigation (48 (2008) DLT 289), at Para 8.9 and 8.10 it has been observed as follows: "Given the wide definition of the words 'document' and evidence' in the amended Section 3 the EA, read with Sections 2(o) and (t) IT Act, there can be no doubt that an electronic record is a document. The further conclusion is that the hard discs are themselves documents.

A hard disc is an electronic device used for storing information, once a blank hard disc is written upon it is subject to a change and to that extent it becomes an electronic record. Even if the hard disc is restored to its original

position of a blank hard disc by erasing what was recorded on it, it would still retain information which indicates that some text or file in any form was recorded on it at one time and subsequently removed. By use of software programmes it is possible to find out the precise time when such changes occurred in the hard disc. To that extent even a blank hard disc which has once been used in any manner, for any purpose will contain some information and will therefore be an electronic record. This is of course peculiar to electronic devices like hard discs. Therefore, when Section 65B EA talks of an electronic record produced by a computer (referred to as the computeroutput) it would also include a hard disc in which information was stored or was earlier stored or continues to be stored.

There are two levels of an electronic record. One is the hard disc which once used itself becomes an electronic record in relation to the information regarding the changes the hard disc has been subject to and which information is retrievable from the hard disc by using a software programme. The other level of electronic record is the active accessible information recorded in the hard disc in the form of a text file, or sound file or a video file etc. Such information that is accessible can be converted or copied as such to another magnetic or electronic device like a CD, pen drive etc. Even a blank hard disc which contains no information but was once used for recording information can also be copied by producing a cloned had or a mirror image.

8.4 Admissibility of Satellite Sketch:

It is also be noted that satellite sketches to find out the location of the accused and spot of the incident can be admitted. In **V.S. Lad and Sons vs. State of Karnataka 2009 CrI. LJ 3760**, the state of Karnataka relied on super imposition of leased out area on satellite map on the basis of satellite emergency obtained by Karnataka State Remote Sensing Application Centre to initiate action against the accused to show encroachment of forest land. The court has accepted it as a evidence and refused quash the FIR.

8.5 Proof of Whatsapp messages:

Whatsapp message is legal evidence under law. The IT Act recognizes the electronic evidence as proof in court. The messages sent through whatsapp messaging app are valid legal evidence under law and the blue tick over the messaging is a valid proof that the recipient read it. Mobile whatsapp and facebook chat are taken as evidence proof in the court of law. In Suo moto writ petition (C) No. 2/2020, dated 10.7.2020 the Hon'ble Supreme Court has allowed to serve summons, notices through instant messaging services such as whatsapp, Telegram, signal. Since mobile phone is computer the print out taken is a computer output, it requires certificate under section 65-B of the Evidence Act. However, in **Aryan Shah Rukh Khan Vs Union of India** ADPS BAIL APPLICATION NO 2571 of 2021 dated 20.10.2021, it has been held that such a certificate is not necessary in the stage of investigation.

8.6 Memory Cards :Normally memory cards are the integral parts of every digital device. In **P.Gopalakrishnan Vs. State of Kerala (2020) 9 SCC 161**, it is held that contents of memory card would be a matter and it would be treated as a substance. Hence it can be treated as document.

8.7 Proof of Copy of computer generated statement of account :

Often it happens that the parties are producing computer generated account statements in order to prove their money claims. The question arises as to whether certificate under section 65-B of Evidence Act is necessary to prove the transaction. When a similar question arose in **M/s. IOCEE Exports Ltd., Chennai Vs. Mr. Moosa Ahmed (Deceased)**, the Hon'ble Madras High Court has held in Para 11 that the statement of accounts Ex.P.32 is not accompanied by a certificate certified by a person who is in charge of the operation of the relevant activities as per Section 65B of the Indian Evidence Act. Therefore, merely on the basis of some transactions and on the basis of Ex.P.32, the suit claim cannot be countenanced. In the absence of any proof with regard to the statement of accounts and any corresponding entries in the ledger and day book, the plaintiff

cannot recover the entire suit amount from the defendants.

8.8 Presumption of electronic records:

Section 81-A of Indian Evidence Act deals about presumption as to genuineness of electronic records. It says that genuineness of the electronic record shall be presumed in respect of official gazette or purporting to be electronic records directed by any law to be kept by any person if such record is kept substantially in the form required by law and is produced from proper custody.

8.8 YouTube and Liability of Intermediary: It is further held that the basic function of the YouTube website permits users to "upload" and view video clips free of charge. Before uploading a video to YouTube, a user must register and create an account with the website. The registration process requires the user to accept YouTube's Terms of Use agreement, which provides, inter alia, that the user "will not submit material that is copyrighted ... unless he is the owner of such rights or has] permission from their rightful owner to post the material and to grant YouTube all of the license rights granted herein." When the registration process is complete, the user can sign in to his account, select a video to upload from the user's personal computer, mobile phone, or other device and instruct the YouTube system to upload the video by clicking on a virtual upload "button." The same is the procedure in Google Website. Thus, if the actual knowledge to the intermediary is proved, then intermediary cannot escape its liability. (at Para 87, Google India Private Limited V/S Visaka Industries Limited And 2 Others, 2016 Law Suit (Hyd) 548)

8.9 Right of Natural Justice Vis a vis Rights of the accused and digital records:

Once we deal about proof of electronic records, it is equally important that opportunity must be given to disprove it. Needless to say, right to fair trial is a fundamental right and valuable right to an accused. **In Manu sharma Vs State NCT of Delhi (2010)6 SCC 1**, it has been observed in Para 220 that the right of the accused with regard to disclosure of document is a limited right but it is codified and is the foundation of a fair investigation and trial. On such matters, the accused cannot claim an indefeasible legal right to claim every document of

the police file or even the portion which are permitted to be excluded from the document annexed to the report under Section 173(2) as per order of the court. It has been further held that right of the accused to claim documents stemmed from the sections 207, 243 and 91 CrpC. Therefore, when the prosecution proposes to rely upon the tap recorded conversation, accused is entitled to get copies of the same. In a case, the court has to proceed on the basis that the CBI proposes to rely upon the 19 CDs containing 768 calls in **In Manu sharma Vs State NCT of Delhi (2010)6 SCC 1**, addition to the document listed by it in the annexure to the charge sheet. Therefore, each of the accused is entitled to be provided with copies of the 19 CDs containing the 768 calls. (Dharambir; Jagdish Chandra; Ajay Khanna; Anand Mohan Sharan V/S Central Bureau Of Investigation 148 (2008) DLT 289). Regarding the right of the accused to get copies and fair trial, the Supreme Court in *P. Gopalakrishnan Vs. State of Kerala* 2019 SCC online SC 1532 has held that it is cardinal that a person tried for serious offence should be furnished with all the material and evidence in advance, on which the prosecution proposed to rely against him during the trial. Any other view would not only impinge upon the salutary mandate contained in the 1973 code, but also the right of the accused of a fair trial enshrined in Article 21 of the Constitution of India.

9. Conclusion and Key Principles

The admissibility of documentary evidence lies at the heart of civil adjudication, and its proper handling is indispensable to the delivery of timely and just outcomes. As this guide has demonstrated, the evidentiary journey of a document—from production, through marking, to final proof—is governed by a complex interplay of procedural rigour and judicial discretion. Judicial decisions such as *Sait Tarajee Khimchand*, *Javer Chand*, and *Bipin Shantilal Panchal* have clarified that mere exhibition does not amount to proof and that procedural safeguards cannot be circumvented without consequence. At the same time, courts have shown increasing flexibility in evolving areas—such as digital evidence, legacy documents, and deferred objections—ensuring that procedural rules serve justice, not frustrate it. In navigating these evidentiary challenges, the judicial officer must perform a dual role: as a gatekeeper ensuring compliance with statutory

mandates, and as a facilitator promoting efficiency and fairness in trial conduct. This calls for a nuanced understanding of:

- The distinction between marking and proving documents;
- The appropriate timing and classification of objections;
- The implications of insufficient stamping, lack of registration, or statutory bars;
- State-specific practices, especially under regional variations like those observed in Chhattisgarh;
- The judicial discretion available under evolving procedural mechanisms such as tentative marking and deferred objection resolution.

Ultimately, a judge's command over evidentiary procedure should not be reduced to technical compliance but must reflect a deeper understanding of the principles underlying admissibility. As the Gujarat High Court aptly noted, modern evidence law is moving from "rigid formalism" to "context-sensitive pragmatism." This transition challenges judicial officers to uphold procedural integrity without allowing technical lapses to derail the course of justice.

This comprehensive guide aspires to serve as a practical and conceptual resource—helping judicial officers apply evidentiary law with clarity, consistency, and fairness. When documentary evidence is handled with both diligence and discernment, it not only enhances the credibility of judicial reasoning but also reinforces public confidence in the civil justice system.

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