**IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**

**THE HONOURABLE SMT. JUSTICE RENUKA YARA**

**CIVIL REVISION PETITION No.3890 of 2024**

**13th DAY OF JULY, 2026**

**Between:**

Md. Khalid.

**…Petitioner**

**AND**

Mohammed Khaja Aijaz Ali.

**...Respondent**

**ORDER:**

Heard Sri Baglekar Akash Kumar, learned counsel for the petitioner and Sri M.A. Basith, learned counsel for the respondent. Perused the entire record.

2. The Civil Revision Petition is filed by the petitioner/defendant aggrieved by the order dated 17.08.2023 passed by the learned XVIII Additional Senior Civil Judge, City Civil Court at Hyderabad ('trial Court'), in I.A.No.83 of 2023 in O.S.No.260 of 2017, wherein a petition filed under Order VIII Rule 1 A (3) of CPC, to receive certain emails and WhatsApp chats, has been dismissed.

3. The background facts of the case are that the respondent/plaintiff filed a suit in O.S.No.260 of 2017 for recovery of the invested amount of Rs.8,00,000/-, for recovery of profit amount of Rs.4,40,000/- for the period from 11.11.2016 to 01.03.2017 and for interest at 24% per annum on the suit amount from the date of suit till the date of realization. Said suit was filed on account of investment of certain amounts by the respondent in the business of the petitioner under a partnership agreement. There were disputes about the business and therefore, the respondent sought recovery of his invested amount as well as profits with interest. In said suit, when the matter was at the stage of defendant's evidence, the petitioner herein filed I.A. under revision to seek leave of the Court for receiving (1) emails exchanged between the petitioner and respondent, (2) emails exchanged between tax consultant, petitioner, respondent and respondent’s son showing copy of draft of business agreement between the petitioner and the respondent, (3) WhatsApp chat exchanged between the petitioner and respondent and (4) WhatsApp chat exchanged between the petitioner and respondent's son. For the purpose of receiving said documents, the petitioner furnished a self certificate under Section 65B (2) of the Indian Evidence Act, 1872 (‘Evidence Act’).

4. The said petition was opposed by the respondent on the ground that there is no pleading with respect to WhatsApp messages or exchanges of emails in the written statement and that the exchange of emails and WhatsApp messages are beyond the period of 2016 and except the messages dated 29.11.2016 and 27.12.2016, no other emails or WhatsApp messages were exchanged and that they are self-created. The WhatsApp messages pertaining to the year 2017 are self-created by the petitioner. Further, it is stated that the emails and WhatsApp messages are filed before the Court without authenticity from the competent authority and as self-certified certification under Section 65B and therefore, not permissible as per proviso of Section 65B of the Evidence Act.

5. Upon considering the arguments and version of both the respective parties, the learned trial Court held that the electronic evidence sought to be received without producing the original instrument through which the mails originated and without producing Section 65B (4) certificate from the concerned authority and therefore, dismissed the petition. Aggrieved by the same, the present revision is preferred.

6. In the grounds of revision, it is pleaded that the trial Court erred in holding that without producing Section 65B (4) of the Evidence Act certificate from concerned officiating authority, evidence cannot be

received. Sub-section 4 of Section 65 B of the Evidence Act purports to be signed by a person occupying a responsible official position in relation to the operation of relevant device or the management of relevant activities and therefore, the certificate under Section 65 B (4) of the Evidence Act can be of either a person occupying official position or manager of relevant activities, as observed in **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal**[1]. The petitioner is the manager and owner of the device through which email and WhatsApp conversations are recorded. Therefore, certificate furnished by the petitioner under Section 65B (4) of the Evidence Act would be sufficient for receiving the electronic evidence. The requirement of certificate from an official person is necessary when the electronic evidence is of the public property and not when said electronic evidence is private property, such as a personal mobile or computer device of an individual.

7. Further, with respect to delay in approaching the Court by filing the Civil Revision Petition under Article 227 of the Constitution, it is stated that the petitioner hoped to mark the documents during cross-examination of the respondent by confronting the documents, but as there is refusal to admit the email conversations, the present revision is filed. It is concluded

[1] (2020) 7 SCC 1

stating that the question of law for consideration is the interpretation of Section 65B of the Evidence Act, as to whether a certificate is required from an official person or the manager of activities of evidence sought to be received.

8. The learned counsel for petitioner argued that there is misinterpretation of Section 65B (4) of the Evidence Act and therefore, an erroneous order is passed. It is emphasized that there is a misinterpretation of paragraph 72 of **Arjun Panditrao Khotkar** (supra) about need for a certificate from an official person, when a certificate from the person managing the activities would suffice for receiving of electronic evidence under Section 65B (4) of the Evidence Act.

9. In reply, the learned counsel for respondent argued that there is failure on the part of the petitioner in producing the mobile from which the electronic emails and WhatsApp chats are generated and there is failure to produce a certificate from the person, who is in charge of the instrument and therefore, the trial Court rightly dismissed the petition. Further, objection is raised about filing a petition under Order VIII Rule 1A (3) of CPC instead of Section 65B (4) of the Evidence Act, urging that the petition itself is not maintainable on account of mentioning wrong provision of law. Further, it is argued that delay in producing the

documents is not explained. Lastly, it is argued that the only intention of the petitioner is to protract the litigation and therefore, Court process must not be permitted to be abused.

10. In support of his case, the learned counsel for respondent referred to the case of **Voruganti Narayana Rao v. Bodla Rammurthy**[2], wherein on account of lack of pleadings and lack of due diligence, a petition to receive documents under Order VIII Rule 1A (3) has been dismissed.

11. Reference is made to the case of **Kyatham Rajkumar v. Vaddepalli Rajamani**[3], wherein it is held that procedure is the handmaid of justice, procedure and technical hurdles shall not come in the way of the Court while doing substantial justice. However, when documents are not pleaded in the written statement, such documents cannot be received in evidence without foundation in the pleadings.

12. Learned counsel for the respondent referred to the case of **Arjun Panditrao Khotkar** (supra), wherein it is held that Sections 65A and 65B of the Evidence Act are not complete code on the subject, and the requirement of a certificate under Section 64B (4) of the Evidence Act being procedural can be relaxed by Court, wherever interest of justice so

[2] 2011 (6) ALT 299
[3] 2023 LawSuit(TS) 391

justifies. Further, the requirement to produce Section 64B (5) certificate in case of secondary evidence can be dispensed with.

13. Having regard to the arguments of both the respective counsel, it is seen that Section 65 of the Evidence Act stipulates procedure for receiving electronic evidence. For the purpose of convenience Section 65 B of the Evidence Act is produced herein:

> **65B. Admissibility of electronic records.** —
>
> (1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or any contents of the original or of any fact stated therein of which direct evidence would be admissible.
>
> (2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely: —
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> (a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;
>
> (b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;
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> (c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of

the period, was not such as to affect the electronic record or the accuracy of its contents; and

(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether—

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say, —

(a) identifying the electronic record containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this subsection it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

> (5) For the purposes of this section, —
>
> (a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;
>
> (b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;
>
> (c) a computer output shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.
>
> Explanation.—For the purposes of this section any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process.

14. Coming to the objections raised by the learned counsel for respondent about there being no pleadings to support the case of petitioner, at paragraph No.7 of the written statement, it is averred as under:

> "7. In reply to Para No.5 of the plaint under reply it is submitted that it is absolutely false to state that the Defendant has changed the attitude of the Plaintiff started collecting the amounts as share of profit from the very next date of transfer of amount and the same is acknowledged by the Plaintiff through emails and SMS with mobile No.9010816460 to the mobile of the Defendant herein."

15. Further, the list of documents filed along with written statement shows screenshots of text messages between the petitioner and respondent

dated 24.11.2016 to 03.01.2017, screenshots of WhatsApp messages dated 28.11.2016 and copies of email dated 22.12.2016 and attachments shared between the petitioner and respondent. Therefore, there is no substance in the contention of the learned counsel for respondent that no foundation is laid down in the pleadings for receipt of electronic evidence.

16. The next objection is about the date of emails as to whether said emails and WhatsApp messages pertains to the year 2016 or 2017. A perusal of the list of the documents sought to be received show that there are emails exchanged between the respondent and petitioner dated 28.11.2016, 29.11.2016 and 22.12.2016. Further, there are emails exchanged between tax consultant, petitioner and respondent dated 28.11.2016 and 29.11.2016. Also there are WhatsApp chat exchanges between the petitioner and respondent dated 28.11.2016, 29.11.2016, 30.11.2016, 08.12.2016, 12.12.2016, 14.12.2016, 20.12.2016, 21.12.2016, 22.12.2016, 24.12.2016, 25.12.2016, 26.12.2016, 27.12.2016, 28.12.2016, 29.12.2016, 30.12.2016, 02.01.2017, 03.01.2017 and 04.01.2017 and the WhatsApp chat messages between respondent and petitioner’s son dated 28.11.2016 till 22.12.2016. The aforementioned exchanges are mostly pertaining to the year 2016 except for three WhatsApp chat messages.

Therefore, the second objection about all the emails are exchanges being created subsequent to filing of the suit is also not sustainable.

17. The third objection is delay in producing the documents. A plausible explanation is given by the petitioner that there was hope about getting the documents marked in confrontation to the respondent as a witness. Only when there is denial of said documents, the need for filing a petition for receiving the documents under Article 227 of Constitution of India arose. Such an explanation cannot be discarded as being without substance.

18. The last objection and the substantial objection is whether a certificate from an official person is required for receiving the emails and WhatsApp chats between the parties. Section 65B (4) of the Evidence Act clearly gives alternative course of action for receiving the documents. One is certificate from the official person and the other is the manager, who is in-charge of activities of the object. In the instant case, the claim made by the petitioner is that the emails and WhatsApp messages originated from his Blackberry mobile. Therefore, the options available for the petitioner for receiving the evidence was either to produce the blackberry itself or to produce a certificate certified by him about the origination of the electronic messages and chats from his blackberry instrument, to the best of his knowledge. The petitioner has followed the second option available i.e.

filing his own certificate, to the best of his knowledge, about said WhatsApp chats and emails originating from the blackberry owned by him and managed by him on a daily basis. Therefore, this Court is of the considered opinion that there was an error in application of the legal ratio laid down in **Arjun Panditrao Khotkar** (supra) by the learned trial Court resulting in erroneous dismissal of the interlocutory application filed to receive the emails and WhatsApp messages between the petitioner, respondent, respondent’s tax consultant and respondent’s son.

19. In view of the foregoing, the impugned order is liable to be set aside and the petitioner is entitled to the relief prayed for.

20. In the result, the Civil Revision Petition is **allowed** by setting aside the impugned order dated 17.08.2023 passed by the learned XVIII Additional Senior Civil Judge, City Civil Court at Hyderabad, in I.A.No.83 of 2023 in O.S.No.260 of 2017 and consequently, allowing the said I.A. There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

**RENUKA YARA, J**

Date: 13.07.2026
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**C.R.P.No.3890 of 2024**

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**13th DAY OF JULY, 2026**