

Order below Exh. 01 in R.C.S. No. 18/2020
(CNR No. MHRT080001882020)

Present suit is pending for evidence. The Power of Attorney of the plaintiff bank, Mr. Mukund Khandekar, has filed his evidence affidavit at Exh. 29 and his additional evidence affidavit is filed at Exh. 31. Therein he has referred the documents produced on record as per list at Exh. 05. As per said list of documents, total 14 documents are produced.

02. I have heard learned advocates for both sides on the point of exhibiting those documents.

03. Leaned advocate for the plaintiff bank, Shri. K. S. Sahastrabuddhe, has submitted that all these documents are referred in the evidence affidavit of PW01 Mukund Khandekar, thus, they may be admitted in evidence.

04. Learned advocate for the defendant, Smt. P. C. Chavan, has submitted that, considering nature of these documents, they cannot be admitted in evidence.

05. Noticeably, by order below Exh. 25, this Court has permitted the plaintiff bank to adduce secondary evidence. Such permission is granted in respect of documents at Sr. No. 01 to 08 in the list at Exh. 05. These documents are – (1) copy of application for loan, (2) copy of promissory note (L434), (3) copy of L435, (4) copy of L440, (5) copy of draft declaration (L515), (6) copy of agreement of hypothecation, (7) copy of loan sanction letter, and (8) copy of report of valuation. These documents are referred to in

the evidence affidavit of PW01. Being so, these documents can be admitted in evidence. Accordingly, these documents at Sr. No. 01 to 08 in the list at Exh. 05 are marked as Exh. 32 to 39 and they are admitted in evidence.

06. The documents at Sr. No. 09 to 12 in the list at Exh. 05 are, respectively, office copy of notice sent to the defendant, postal receipt, postal acknowledgment, and reply notice by the defendant. Considering nature of these documents and the fact that they are referred in the evidence affidavit of PW01, these documents are admitted in evidence and marked as Exh. 40 to 43.

07. The document at Sr. No. 13 in the list at Exh. 05 is said to be a copy of statement of account issued by the then manager of the bank. Thus, without said manager is being examined, said document cannot be admitted in evidence.

08. The document at Sr. No. 14 is copy of the document of power of attorney said to have executed in favour of Mr. Mukund Khandekar by the bank. In respect of said document, this Court has passed an order below Exh. 01 on 10/05/2024. By the said order it was held and directed that when there is document of power of attorney, the original be produced. If the Holder of POA is unable to produce the original as he is required to produce the same in different proceedings, he shall follow the procedure as contemplated by section 4 of the Act.

09. Said order dated 10/05/2024 was sought to be review petition No. 15/2024. As per order dated 13/09/2024 passed

therein, said petition was allowed. This Court has passed following order -

“ORDER

1. The application is allowed.
 2. The parties are again afforded an opportunity to argue as to admissibility in evidence or otherwise of the copy of POA which the plaintiff bank has tried to get admitted in evidence in the suit.
 3. Present application is disposed of in aforesaid terms.”
10. In view of aforesaid facts, to prove the document at Sr. No. 14 of Exh. 05 i.e. the copy of document of POA, the plaintiff bank shall take appropriate steps to prove that document.
11. Ordered accordingly.

Date :- 08/11/2024

(B. D. Tare)
Civil Judge (J.D.), Devrukh.

- : C E R T I F I C A T E : -

I affirm that the contents of this Pdf file order are same words as per original order.

Name of Stenographer	:- S. A. Bhale
Court Name	:- The Court of Civil Judge (J.D.) & Judicial Magistrate F.C., Devrukh
Date	:- 08/11/2024
order signed by PO. on	:- 08/11/2024
order uploaded on	:- 08/11/2024