

Order below Exh. 01 in R.C.S. No. 59/2019
(CNR No. MHRT080005502019)

Present suit is pending for evidence. PW02 Sanket Sakpal, Senior Manager of Bank of India, branch-Kadavi has filed is evidence affidavit at Exh. 52.

02. Learned advocate for the plaintiff, Mr. K. S. Sahastrabuddhe, has submitted that in view of particular statements made by the witness in paragraph No. 07 of the affidavit at Exh. 52, the copy of account statement produced on record as per Sr. No. 13 of list at Exh. 05 be admitted in evidence. To substantiate the contentions, learned advocate has referred to the provisions of section 2 (8) and 2-A of the Bankers' Books Evidence Act, 1891 ('the Act' in short).

03. Learned advocate for the defendant, Smt. P. C. Chavan, has submitted that, in view of provision of clause (a) of section 2 (8) of the Act, the certificate must be dated and it shall contain name of the accountant or Manager who issued the same. However, perusal of document produced as per Sr. No. 13 of Exh. 05, it is clear that it does not contain those particulars. Being so, such document cannot be admitted in evidence.

04. At the outset, it need to be noted that section 2 of the Act contains a definition clause. Sub-section (8) thereof the defines 'certified copy'. Section 2-A of the Act deals with 'conditions in the printout'.

05. 'Certified copy' is defined by section 2 (8) as follows-

"certified copy" means when the books of a bank, -

(a) are maintained in written form, a copy of any entry in such books together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business and that such books is still in the custody of the bank, and where the copy was obtained by mechanical or other process which in itself ensured the accuracy of the copy, a further certificate to that effect, but where the book from which such copy was prepared has been destroyed in the usual course of the bank's business after the date on which the copy has been so prepared, a further certificate to that effect, each such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title; and

(b) consists of printouts of data stored in a floppy, disc, tape or any other electro-magnetic data storage device, a printout of such entry or a copy of such printout together with such statements certified in accordance with the provisions of section 2A.

(c) a printout of any entry in the books of a bank stored in a micro film, magnetic tape or in any other form of mechanical or electronic data retrieval mechanism obtained by a mechanical or other process which in itself ensures the accuracy of such printout as a copy of such entry and such printout contains the certificate in

accordance with the provisions of section 2A.

06. Reading of the aforesaid provision make it clear that, it enumerates different categories of the documents which can be called 'certified copy' for the purposes of the Act. Reading of paragraph No. 7 of the evidence affidavit at Exh. 52 and proposed document alongwith the certificate attached to it shows that it is the printout of the entries recorded in mechanical or electronic data retrieval mechanism obtained by a mechanical or other process which in itself ensures the accuracy of such printout. Thus, the document produced is one which falls under clause (c) of sub-section (8) of section 2. Thus, the conditions which are enumerated in respect of specified document as provided by clause (a) thereof are not applicable to the proposed document. Accordingly, only because the proposed document and certificate appended thereto does not contain name and date, said document cannot be refused from being admitted in evidence.

07. In fact, PW02 has clearly testified in his evidence affidavit that, he has downloaded and printed the account statement by using the banking system for that purpose. He has further stated that he has so produced the account statement which was obtained on 08/10/2019.

08. In this connection, learned advocate for the defendant submits that there is nothing in the affidavit as to on which date the printout was obtained. However, such contention does not seem acceptable in view of aforesaid clear statement

in the evidence affidavit that it was so taken on 08/10/2019.

09. Learned advocate for the defendant further submits that the account statement and certificate appended thereto does not contain said date. However, only because such date of printout is not mentioned in the document, the document cannot be refused from being admitted in evidence.

10. Formal contents as to proof of document are clearly set out in the evidence affidavit of PW02. Further, prima-facie, the document satisfies requirements of the Act. Thus, in light of these facts, proposed document can be admitted in evidence. As such, the document at Sr. No. 13 (statement of account alongwith the certificate) in the list of documents at Exh. 05 can be admitted in evidence. Accordingly, it is so admitted in evidence and is marked as **Exh. 53.**

Date :- 22/11/2024

(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	:- K. V. Vaje (Jr. Clerk)
Court Name	:- The Court of Civil Judge (J.D.) & Judicial Magistrate F.C., Devrukh
Date	:- 22/11/2024
order signed by PO. on	:- 22/11/2024
order uploaded on	:- 22/11/2024