

*Kavita S.J.*

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 2256 OF 1998

Harinarayan G. Bajaj & Anr. ... Plaintiffs

*Versus*

Vijay Agarwal & Ors. ... Defendants

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Ms. Sonal a/w Mr. Vivek Sharma for the Plaintiffs.

Mr. Girish Kedia a/w Mr. Krushang Kedia for Defendant Nos.1, 2, 4 & 5.  
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CORAM : R.I. CHAGLA, J.

DATED : 21<sup>th</sup> MARCH, 2025.

**ORDER :**

1. Ms. Sonal, learned Counsel appearing for the Plaintiffs has referred to the document which is at Serial No.1 of the Compilation of Documents viz. Copy of MoU dated 1st January, 1996 signed between Creative Finance Limited and PW-5 marked as D-36 in Criminal Case No.346/SS/05 in the 40th Court of Metropolitan Magistrate at Girgaum. She has referred to the evidence by way of Affidavit of PW-5 in the above Suit and in particular Paragraph 21, wherein reference is made to

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the MoU dated 1st January, 1996 signed between Creative Finance Limited and PW-5 which had been produced in Case No.346/SS/05 filed by the concerned Mr. Vijay Agarwal against PW-5 in the 40th Court of Metropolitan Magistrate, Girgaum and marked as Exhibit-D-36 therein.

2. Ms. Sonal has tendered the original MoU which had been filed in the 40th Court of Metropolitan Magistrate at Girgaum and marked as Exhibit-D36. She has submitted that the said MoU dated 1st January, 1996 which had been produced by the PW-1 and taken on record and marked DW-1/10 is not the original MoU which had been executed between Mr. Vijay Agarwal and PW-5 but is a tampered with document. She has sought leave to file a further Affidavit of Evidence of PW-5 deposing to the same and seeking production of the original MoU which has been filed in Case No.346/SS/05 by the concerned Mr. Vijay Agarwal against PW-5 in the 40th Court, Metropolitan Magistrate at Girgaum and marked as Exhibit-D36 therein.

3. Accordingly, PW-5 shall file additional Affidavit of Evidence for seeking production of document which is at Serial No.1 of the Compilation of Documents.

4. It is pertinent to note that the said document has been objected to by the Advocates for the Defendants on the ground that the said MoU is a photocopy and the same is not stamped under the Bombay Stamp Act. Further, there is no reference of the said MoU in the above Suit either by the Plaintiffs or the Defendants. Further, the said MoU is not subject matter of the present Suit and has been executed between the Creative Finance Limited and Shailesh H. Bajaj - PW-5 and both of whom are not the parties to the present Suit. Accordingly, the objection raised is that the said document cannot be exhibited.

5. PW-5 shall file the Additional Affidavit within a period of one week from today.

6. The remainder of the documents in the Compilation of Documents of PW-5 shall be marked on the adjourned date.

7. The Statement of Admission and Denial of the documents has been filed by the Advocate for Defendant Nos.1, 2, 4 and 5.

8. The Advocates for the Plaintiffs shall provide inspection of

the original MoU dated 1<sup>st</sup> January, 1996 to the Advocates for the Defendant Nos.1, 2, 4 and 5.

9. Stand over to 4<sup>th</sup> April, 2025 at 2.30 p.m. for marking of documents.

**[ R.I. CHAGLA, J. ]**