

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

SUIT NO. 3407 OF 1995

Prithviraj H. Bajaj And Anr. ...Plaintiffs

Versus

L.I.C. And Ors. ...Defendants

Mr. Rahul Sarada a/w Mr. Mantul Bajpai i/b Crawford Bayley, for Plaintiff.

Ms. G.O. Gini i/b Ms. Komal Punjabi for-BMC.

Ms. Sayli Apte i/b Mr. P. G. Lad for Defendant No.2.

Ms. Snehlata Paranjape a/w Mr. O. Mohandas, Mr. J. P. Kapadia, i/b Little & Co. for Defendant No.1 (LIC).

CORAM: MADHAV J. JAMDAR, J.

DATED: 29th NOVEMBER 2024

P.C.:

1. Ms. Paranjape, learned Counsel for the Defendant No.1 states that witness No.1 -Mr. Vijay Hansraj Sharma, of the Defendant No. 1 is present in Court to give his evidence. The said witness is administered oath. The details of the said witness are as follows:

D.W. 1

Name : Vijay Hansraj Sharma

Age : 60 years

Occupation : Retired L.I.C. Employee

Address : H-24/704, Indraprasth Co-Operative
Housing Society Pratiksha Nagar, Sion (E)
Mumbai -400 023

On S.A.

Examination-in-chief by Ms. Paranjape, learned counsel for the Defendant No.1

I say that I have affirmed the Affidavit-of-Evidence in lieu of Examination-in-Chief on behalf of Defendant No.1 dated 13th June 2023. I have also affirmed additional Affidavit in lieu of Examination-in-Chief on behalf of Defendant No.1 dated 5th December 2023. I say that signatures on both these Affidavit of Evidence and additional Affidavit of Evidence are my signatures. The contents of the said Affidavit of Evidence and Additional Affidavit of Evidence are true and correct.

Examination-in-Chief of DW1 is completed

1. Accordingly, the Affidavit of Evidence-in-Chief of DW1-Vijay Hansraj Sharma, dated 13th June 2023 is marked as “**Exhibit D1**”. The Additional Affidavit in lieu of Examination-in-Chief of DW1-Vijay Hansraj Sharma dated 5th December 2023 is marked as “**Exhibit D2**”.

2. Ms. Paranjape, learned Counsel appearing for the Defendant No.1 states that 14 documents are produced alongwith compilation of documents. She states that the documents produced at Sr. No.2, 6, 11 & 14 are the Office copies maintained by the Defendant No.1- Life Insurance Corporation of India, and other documents are photocopies of the original documents. She also states that document of Sr. No. 4 is original receipt of Repair Cess paid for the period 01.10.1993 to 31.03.1994 by the Municipal Corporation of Greater Mumbai.

3. Mr. Sarada, Learned Counsel appearing for the Plaintiffs State that some of these documents do not bare the signature, some of them are ineligible, in some documents there are insertions and overwriting and although photocopies of most of the documents are produced, the D.W. 1 has not stated that he has seen the original and photocopy is as per the original. Therefore, he is objecting for

marking these documents

4. Thus, the documents produced by D.W.1 are marked, subject to these objections and subject to cross-examination.

5. For the purpose of convenience, the particulars of these documents and Exhibit Nos. are set out in the tabular form as follows:-

Sr. No.	PARTICULARS	EXHIBIT NO.
1.	Copy of the Demand / Assessment Notice dated 1 st October 1992 for the period 1/4/1992 to 30/09/1992 for the amount of Rs. 13,512/-.	D3
2.	Original Office Copy of the covering letter of Defendant No. 1 dated 10 th July 1993 alongwith its Typed Copy	D4
3.	Copy of demand/assessment notice dated 2 nd April 1994 for the period 1/10/1993 to 31/03/1994 for the amount of Rs. 13,512/-.	D5
4.	Original Receipt for Repair Cess paid for the period 01/10/1992 to 31/03/1993 by the Defendant No. 1.	D6
5.	Copy of demand/assessment notice dated 1 st October 1993 for the period 01/04/1993 to 30/09/1993 for the amount of Rs. 13,512/-.	D7
6.	Original Office Copy of the Covering Letter dated 3 rd December 1993 recording the payment of Rs. 13,512/- for the period 01/04/1993 to 30/09/1993 by the Defendant No. 1. alongwith its Typed Copy.	D8
7.	Copies of the demand notices for the half yearly assessments of the Property Tax for the Oval View Building raised upon Defendant No. 1.	D9 (colly.)

8	Original Office Copy of the Covering Letter dated 19 th May 1993 recording payment of half yearly assessments of Property Tax for the Oval View Building by the Defendant No. 1 alongwith its Typed Copy.	D10
9.	Original letter dated 13 th February 1997 from the Government of India, the Indian Meteorological Department addressed to the Defendant No. 1 alongwith its Typed Copy.	D11
10.	Copy of the letter dated 1 st August 1994 addressed to Shri X. K. Aga by the Defendant No. 1.	D12
11.	Original Office Copy of letter dated 1 st August 1994 bearing Ref. No. EMC/E&OS/Oval View/OPV/421 from the Defendant No. 1 to Shri X. K. Aga alongwith its Typed Copy.	D13

7. Mr. Priyank Kapadia, Advocate is appointed as Commissioner and is requested to record the Cross-Examination of DW-1 within a period of 8 weeks. In that respect following directions are issued:

- (a) The Commissioner is at liberty to exercise discretion under Order XVIII Rule 4(4) of the *Code of Civil Procedure, 1908*, to note the demeanour of the witness when necessary.
- (b) All cross-examination shall be strictly conducted in the 'question and answer' form.
- (c) Costs of the commission shall be equally borne by the parties.
- (d) Parties shall also pay cost of Rs. 500/- per hearing to the Court Clerk who attends the Commission with Court Papers. This is required since these Clerks attend the commission in addition to their regular duties and beyond

their regular working hours.

8. Accordingly, stand over to **21st February 2025**.

[MADHAV J. JAMDAR, J.]

Note:- This order is corrected by Speaking to the Minutes order dated 11/12/2024.