

Kavita S.J.

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

SUIT NO. 1427 OF 2019

Devika Sunil Jamdar

...Plaintiff

Versus

Serika Lal @ Sarika Aggarwal & Ors.,

...Defendants

Mr. Karl Tamboly, Counsel a/w Mr. Indrajeet Kulkarni for Plaintiff.

Ms. Shradha Achliya a/w Mr. Rishabh Jadhav i/b Parinam Law Associates for Defendant No.1.

Mr. N.C. Pawar, Court Receiver present.

CORAM : R.I. CHAGLA, J.

DATED : 9th JULY, 2025.

D.W.1 :

Name	:	Ms. Serika Lal
Age	:	58 years
Occupation	:	Self-employed
Address	:	Flat No.308, Shalaka, Sang Co-op. Hsg. Society, 9, M. Karve Road, Cooperage, Mumbai – 400 020.

KAVITA
SUSHIL
JADHAV

Digitally signed
by KAVITA
SUSHIL JADHAV
Date: 2025.07.16
18:39:21 +0530

Examination-in-Chief of the Defendant's Witness viz. Defendant No.1 (DW-1) on S.A.

1. I am tendering my Affidavit in lieu of Examination-in-Chief dated 9th September, 2024 and Additional Affidavit in lieu of Examination-in-Chief dated 11th March, 2025. I have affirmed the said Affidavits and the signature at the foot of the said Affidavits is mine. I confirm that the contents of the said Affidavits are true to my personal knowledge, information and belief and have been duly verified by me.

P.C.

2. The Affidavit in lieu of Examination-in-Chief and Additional Affidavit in lieu of Examination-in-Chief of DW-1 dated 9th September, 2024 and 11th March, 2025 are taken on record and marked as **Exhibit-D1** and **Exhibit-D2** respectively.

3. I am further tendering my Affidavit of Documents dated 13th August, 2024. I identify the signature at the foot of the said Affidavit of Documents as mine. I say that the contents of the said Affidavit of Documents is true to my personal knowledge and belief.

P.C.

4. The Affidavit of Documents are taken on record and marked as **Exhibit-D3**.

5. I am further tendering two Affidavits under Section 63(4) of the Bharatiya Sakshya Abhiniyam dated 9th September, 2024 and 11th March, 2025. I identify the signature at the foot of the said Affidavits as mine. I say that the contents of the said Affidavits are true to my personal knowledge and belief.

P.C.

6. Affidavit of DW-1 under Section 63(4) of the Bharatiya Sakshya Abhiniyam dated 9th October, 2024 is taken of record and marked as **Exhibit-D4** and Affidavit of DW-1 under Section 63(4) of the Bharatiya Sakshya Abhiniyam dated 11th March, 2025 is taken on record and marked as **Exhibit-D5**.

7. I am tendering the documents which are supported by my Affidavit of Documents and which may be marked in evidence.

P.C.

8. The document at Serial No.6 of the Affidavit in lieu of Examination-in-Chief is Photocopy of Letter dated 1st August, 2017 addressed by the Society to Defendant No.1 and subject to proof in the Cross Examination of DW-1. It is taken on record and marked as **Exhibit-D6**.

9. The documents at Serial Nos. 12, 20, 21 and 22 viz. Photocopy of Order dated 14th December, 2017 passed by Deputy Registrar; Printout of Order dated 8th April, 2021 passed by this Court in Testamentary Suit No.8 of 2021; Printout of Order dated 3rd December, 2020 passed by this Court in Suit No.1427 of 2019; Printout of Order dated 18th December, 2020 passed by this Court in Suit No.1427 of 2019 are judicial orders which are not required to be marked in evidence and are merely taken on record.

10. The Document at Serial No.2 of the Additional Affidavit in lieu of Examination-in-Chief / Compilation of Documents of DW-1 dated 9th July, 2025 is the printout of Order dated 4th July, 2024 passed by this Court in Appeal No.7 of 2024. Being a judicial order it is not required to be marked as evidence and accordingly taken on

record.

11. The documents in respect of which the existence and truth of contents have been denied by the Plaintiff are taken on record and marked in evidence subject to proof in the cross examination of DW-1. These are the Documents at Sr. Nos.1 to 5, 7 to 11, 13 to 19 and 23 to 32 from Affidavit in lieu of Examination-in-Chief / Compilation of Documents of DW-1 dated 9th July, 2025 and are marked as follows:

Sr. No.	Particulars	Exh.No.
1.	Photocopy of Gas Connection Bill dated 8 th September, 2017 issued by Bharatgas	Exhibit-D7
2.	Photocopy of RTI Application dated 7 th June, 2017	Exhibit-D8
3.	Photocopy of RTI Application's Reply dated 29 th June, 2017	Exhibit-D9
4.	Photocopy of RTI Application's Reply dated 21 st August, 2017	Exhibit-D10
5.	Photocopy of Letter dated 31 st July, 2017 addressed by Defendant No.1 to the Society	Exhibit-D11

7.	Photocopy of Letter dated 13 th October, 2017 signed and issued by Defendant No.1 to the Society	Exhibit-D12
8.	Photocopy of Complaint/Letter dated 10 th September, 2017 filed before the Deputy Registrar by Defendant No.1	Exhibit-D13
9.	Photocopy of Second Complaint/Letter dated 13 th October, 2017 filed before the Deputy Registrar by Defendant No.1	Exhibit-D14
10.	Photocopy of Letter dated 1 st November, 2017 issued by the Deputy Registrar to Defendant No.1	Exhibit-D15
11.	Copy of Application filed by the Defendant No.1 with Deputy Registrar	Exhibit-D16
13.	Photocopy of RTI Application dated 13 th October, 2017 filed by Defendant No.1 with the Joint Sub Registrar	Exhibit-D17
14.	Photocopy of Fax Letter dated 4 th June, 2003 sent by the deceased to Defendant No.1	Exhibit-D18
15.	Photocopy of Letter dated 23 rd July, 2015 addressed by the deceased to HDFC Bank, Worli	Exhibit-D19

16.	Photocopy of Email dated 29 th August, 2015 sent by the deceased to Mr. Sunil Jamdar	Exhibit-D20
17.	Photocopy of Email dated 1 st September, 2015 sent by the deceased to Mr. Sunil Jamdar	Exhibit-D21
18.	Photocopy of Letter dated 13 th October, 2017 sent by the Defendant No.1 to HDFC Bank	Exhibit-D22
19.	Printout of Email dated 13 th December, 2017 addressed from vinitasanghi@yahoo.com to Defendant No.1's email id with attachments	Exhibit-D23
23.	Photocopy of Letter dated 15 th November, 2014 addressed by Raghunandan Lal Aggarwal/Deceased to the Chairman HDFC Bank	Exhibit-D24
24.	Photocopy of Letter dated 9 th March, 2015 addressed by Raghunandan Lal Aggarwal/Deceased to HDFC Bank, Worli	Exhibit-D25
25.	Photocopy of Letter dated 9 th March, 2015 addressed by Raghunandan Lal Aggarwal to the Manager, HDFC Bank	Exhibit-D26
26.	Photocopy of a Letter addressed by the deceased to Manager, HDFC Bank	Exhibit-D27
27.	Photocopy of Letter dated 17 th June, 2017	Exhibit-D28

	addressed by HDFC Bank Ltd – Depository Services to Raghunandan Lal Aggarwal/Deceased	
28.	Photocopy of Dematerialization Request from pertaining to Folio No.17796 submitted by deceased	Exhibit-D29
29.	Photocopy of Dematerialization Request from pertaining to Folio No.17943 submitted by deceased	Exhibit-D30
30.	Photocopy of Letter dated 26 th July, 2014 from Link Intime India Pvt. Ltd. to Mr. Raghunandan Lal Aggarwal/Deceased	Exhibit-D31
31.	Photocopy of Letter dated 22 nd July, 2014 from Link Intime India Pvt. Ltd. to Mr. Raghunandan Lal Aggarwal/Deceased	Exhibit-D32
32.	Photocopy of Letter dated 21 st November, 2014 addressed by Bhupali Manjrekar, HDFC Bank, Worli Seaface Branch to Raghunandan Lal Aggarwal/Deceased	Exhibit-D33

12. The remainder document at Sr.No.1 from Additional Affidavit in lieu of Examination-in-Chief / Compilation of Documents of DW-1 dated 9th July, 2025 is marked in evidence subject to proof in

Cross Examination of DW-1 as follows:

Sr.No.	Particulars	Exh.No.
1.	Photocopy of Letter dated 13 th February, 2024 alongwith the delivery receipt obtained from the India Post website	Exhibit-D34

13. At this stage, when the Court was closing the examination-in-chief after the marking of the documents and for issuance of directions for appointment of Court Commissioner to record cross examination of DW-1, Ms. Achliya, the learned Counsel appearing for the Defendant has sought time for filing further Affidavit of documents of DW-1. This has been vehemently opposed by Mr. Tamboly on behalf of the Plaintiff stating that the Defendants were aware of the documents which were required to be relied upon by them and which were available with the Defendants and that they are now procrastinating the trial proceedings.

14. I find merit in the submission of Mr. Tamboly. However, in the interest of justice and so as to give an opportunity to the Defendant to make out a case for being permitted to file further Affidavit of documents, the matter is being stood over.

15. DW-1 shall remain present on the next date.
16. The Suit shall be placed on 11th July, 2025.
17. The Issue of costs shall be considered on the next date.

[R.I. CHAGLA, J.]