

Sharada

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 Achlaya 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 : 11th 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.

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

1. I am tendering second additional affidavit in lieu of examination in chief of Defendant No.1 dated 11th July 2025. I have signed the said affidavit and signature at the foot of the said Affidavit is mine. I confirm whatever is stated in the said affidavit is true to my knowledge, information and belief. The second additional affidavit in lieu of examination in chief of Defendant No.1 is taken on record and marked **Exhibit-D35**.

2. I am also producing a compilation of documents on behalf of Defendant No.1 which documents have been referred to in the said affidavit, which has been taken on record.

P.C.

3. Mr. Karl Tamboly, learned Counsel for the Plaintiff has raised an objection for marking of the documents. By keeping the objections open, to be considered at a later stage of arguments, and subject to proof of the existence and contents in cross- examination of DW-1, the documents are marked as under:

Sr. No.	Particulars	Exh.No.
1.	Certified Copy of the Printout of the said emails dated 30th June 2006.	Exhibit-D36
2.	Certified copy of the hand written note of the Deceased.	Exhibit-D37
3.	Hand written letter dated 24th March 2017 of the Deceased.	Exhibit-D38
4.	Certified copy of the Original Interim Equity Dividend Certificate dated 22nd August 2012 issued in favour of the Deceased.	Exhibit-D39
5.	Copy of the email dated 20th April 2025 addressed by Defendant No.2 to Defendant No.1.	Exhibit-D40
6.	Affidavit under Section 63(4) of the Bharatiya Sakshya Adhiniyam	Exhibit-D41

4. Mr. Tamboly, has also raised the issue as regards payment of costs considering the delay in producing the documents and that costs be imposed upon the Defendants.

5. I am not inclined to order costs at this stage. The

Examination in Chief of DW-1 is concluded. DW-1 at present is discharged.

6. Ms. Dipti Butta, advocate of this Court is appointed as Court Commissioner to record the cross-examination of DW-1. Her details as well as directions issued are as under:-

Court Commissioner	Ms. Dipti Bhuta, Advocate
Address	202A, Savla Chambers, 40, Cawasji Patel, Fort, Mumbai – 400 001.
Mobile	9820766867
Email	diptinaz@gmail.com

- i) The Commissioner is at liberty to exercise discretion under Order XVIII Rule 4(4) of the Code of Civil Procedure, 1908, to note the demeanor of the witnesses where necessary.
- ii) All cross-examination shall be conducted strictly in question and answer form.
- iii) The Commissioner will also be at liberty to direct that the whole or any part of the cross-examination should be video recorded for later reference of the Court. Should that be done, the original audio visual recording will be submitted along with the Commissioner's Report to the Registry.

- iv) Liberty to the parties as also to the Commissioner to apply in case of difficulty.
- v) All re-examination will be conducted only in court.
- vi) Costs of the commission shall be borne equally by the parties.
- vii) Parties shall also pay costs 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 outside their normal working hours.
- viii) The Commissioner is not to permit any applications for adjournment on dates previously fixed, except where absolutely unavoidable Counsel's inconvenience or unavailability does not constitute such unavailability.
- ix) In the event, the original papers are required during the course of cross-examination, the same shall be available by the parties to the Court Commissioner. The same shall be provided with the terms including payment of costs and charges of the Court Officer is concerned.

- x) The Commissioner to conclude the cross-examination of DW-1 and submit a report on or before 29th August 2025.

7. Place the suit for further directions and filing of the Court Commissioner's Report on 8th September 2025 at 3.00 p.m.

[R.I. CHAGLA, J.]