

*Sharayu Khot.*

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

SUIT NO. 1427 OF 2019

Dr. Devika Sunil Jamdar

...Plaintiff

*Versus*

Serika Lal alias Ms. Sarika Aggarwal & Ors.

...Defendants

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Neveille Mukerji a/w Mr. Indrajeet Kulkarni and Mr. Arman Mulla for the Plaintiff.

Ms. Shraddha Achliya a/w Mr. Rishabh Jadhav i/by Parinam Law Associates for the Defendant No. 1.

Ms. Asha Bhuta, Court Commissioner present.

Mr. N.C. Pawar, Court Receiver a/w Ms. N.Y. Deshpande, 1st Asstt to Court Receiver present.

Ms. Serika Lal, Defendant No. 1 present (through VC).

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**CORAM : R.I. CHAGLA J**

**DATE : 21 August 2025**

**ORDER :**

1. By an order dated 6th August 2025, this Court had recorded the statement of the learned Counsel for the Plaintiff that cross-examination of DW.1 shall be concluded in three days, i.e. 18th, 19th and 20th August 2025, which had been fixed by the Court

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Commissioner. This Court directed that no further extension is to be granted, since ample opportunities have been granted to the parties. The Court Commissioner was requested to conclude the recording of cross-examination of DW.1 in the stipulated days fixed. The submission of the learned Counsel for the Plaintiff that cross-examination of DW.1 shall be concluded in three days, i.e. 18th, 19th and 20th August 2025 fixed by the Court Commissioner was also recorded.

2. The Court Commissioner was also directed to file the Report before this Court on 29th August 2025, when the matter shall be placed at 3:00 p.m.

3. The Court Commissioner, who had earlier expressed her inability to record the cross-examination of DW.1 on those dates, had by email dated 5th August 2025 rescheduled her commitments. Accordingly, the cross-examination of DW.1 was to be recorded on 18th, 19th and 20th August 2025 between 5:00 p.m. to 7:00 p.m..

4. It was made clear in the said email that the Commissioner will not be in Mumbai from 25th August 2025 to 5th

September 2025 and would require two days to submit her Report as per the order of this Court.

5. Today, this Court is apprised of the fact that DW.1 did not remain present on the said three dates, i.e. 18th, 19th and 20th August 2025 fixed by the Court Commissioner. On one of the dates i.e. 19th August 2025, the Court Commissioner had addressed communication to the parties that in view of heavy rains and this Courts having issued notice that the sitting of the Court will be till 12:30 p.m., it would not be possible for the Court Commissioner to record the cross-examination of DW.1. Further, on 18th August 2025, the Court Commissioner upon receiving an email on that date from the Advocates for the Defendant No. 1 regarding the inability on the part of Defendant No. 1 (DW.1) to make herself available for the recording of her cross-examination on that day because of being out of town and not able to return due to the weather conditions, had excused the DW.1 from attending. The Advocates for the Plaintiff had voiced their opposition to such adjournment by their communication bearing the same date.

6. However, on 20th August 2025 the DW.1 without any

excuse failed to make herself available for recording her cross-examination.

7. The Commissioner had made it clear to the parties as aforementioned that she will be unavailable from 25th August 2025 till 5th September 2025. Thus, the failure on the part of DW.1 to remain present before the Commissioner on 20th August 2025 is unpardonable and it would require the imposition of costs. Further dates are also to be fixed for cross-examination of DW.1.

8. Accordingly, costs of Rs. 50,000/- (Rupees Fifty Thousand only) is imposed on Defendant No. 1 payable to the Plaintiff within a period of two weeks from uploading of this order.

9. The Commissioner, who is present in Court, shall on 10th, 11th and 12th September 2025 record the evidence of DW.1, which shall be concluded within the said three days.

10. There shall be no further adjournments granted to the parties, who shall make themselves available for recording of cross-examination of DW.1.

11. The Court Commissioner shall submit the Report before this Court on 19th September 2025, when the Suit shall be placed at 3:00 p.m., for directions.

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