

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

INTERIM APPLICATION NO. 712 OF 2026

IN

SUIT NO. 1427 OF 2019

Dr. Devika Sunil Jamdar .. Applicant/Plaintiff
V/s.
Serika Lal alias Sarika Aggarwal And Ors. .. Defendants

WITH

SUIT NO 1427 OF 2019

WITH

COURT RECEIVER REPORT NO. 42 OF 2021

WITH

INTERIM APPLICATION NO. 5539 OF 2025

IN

SUIT NO 1427 OF 2019

WITH

INTERIM APPLICATION (L) NO. 21028 OF 2025

IN

SUIT NO 1427 OF 2019

Mr. Zarir Bharucha, Senior Advocate a/w Mr. Indrajeet Kulkarni for Applicant/Plaintiff.

Mr. Gauraj Shah a/w Mr. Rishabh Jadhav and Ms. Nikita Jadhav and Ms. Riya Patil i/b Parinam Law Associates for Defendant no. 1.

Mr. Swayam S. Chopda, O.S.D. Court Receiver present in Court.

CORAM : FARHAN P. DUBASH, J.

DATE : 27th MARCH 2026

P.C.:

1. By consent of parties, the Interim Application No. 712 of 2026 is

disposed of in terms of the following order:

::ORDER::

- (i) Mr. Bharucha, learned Senior Counsel who appears on behalf of the Plaintiff, on instructions, states that the Plaintiff is not desirous of getting the document viz. alleged Affidavit dated 13th November 1993 (marked "X-1" for identification) on record in the present suit.
- (ii) Mr. Gauraj Shah, learned Counsel who appears on behalf of Defendant no. 1, on instructions, states that considering the above statement made by the Plaintiff, Defendant no. 1 does not wish to lead the evidence of Mr. J. S. Landge (Handwriting Expert) whose name appears at serial no. 1 in the list of witnesses dated 24th November 2025 submitted by Defendant no. 1.
- (iii) Mr. Gauraj Shah, makes a further statement that, insofar as the witnesses whose names are mentioned at serial nos. 2 to 7 of the said list of witnesses is concerned, Defendant no. 1 does not wish to bring those witnesses for the purposes of leading any evidence on her behalf in the matter but has only included their names in the list of witnesses since she desires those witnesses to produce the documents which

according to her are stated to be in their possession. He further states that Defendant no. 1 will apply for issuance of witness summons in respect of these six witnesses since none of them have till date volunteered to produce the documents that are sought by her.

- (iv) The witness summons and application for witness summons of these six witnesses shall be filed and served no later than 15th April 2026. Liberty to apply.
- (v) Mr. Shah, further states that other than these witnesses, Defendant no. 1 does not wish to lead the evidence of any other witnesses. The statement is accepted.
- (vi) Interim Application No. 712 of 2026 is disposed of in terms of the aforesaid order with no order as to costs.

(FARHAN P. DUBASH, J.)

ORDER DATED : 1st APRIL 2026

2. After the order was dictated in Court, Mr. Gauraj Shah, learned Counsel who appears on behalf of Defendant no. 1 mentioned the matter on the same day. He states that due to some inadvertence on his part, it remained to be mentioned that Defendant no. 1 is desirous of leading the evidence of the handwriting expert - Mr. J. S. Landge (whose name appears

at serial no. 1 in the list of witnesses dated 24th November 2025 submitted by Defendant no. 1), to also prove that the document, viz. letter dated 6th March 2004 addressed by the deceased to the Chairman of Shalaka Sangh Co-operative Housing Society Limited seeking issuance of a duplicate share certificate, was not addressed by the deceased and that the signature of the deceased appearing on this letter is fabricated. Accordingly, he states that his consent/statement that was recorded by this Court in the order above, ought to be modified to that extent and liberty ought to be given to Defendant no. 1 to lead such evidence of the handwriting expert – Mr. J. S. Landge.

3. Since the Plaintiff had already left Court after the above order was dictated in open Court on 27th March 2026, the matter was placed on board on 1st April 2026 when this order was passed.

4. Today, when the aforesaid request was reiterated by Mr. Shah, the same was vehemently opposed by Mr. Bharucha, learned Senior Counsel who appears for the Plaintiff. Hence, this Court has proceeded to hear the parties on the said request of Defendant no. 1 as to whether, he should be permitted to lead the evidence of the said handwriting expert, Mr. J. S. Landge.

5. Mr. Shah points out that the letter dated 6th March 2004 was originally a part of Box No. 1 and was to his client's knowledge since March 2021, when orders in respect of the documents which formed part of the Box

No. 1 came to be passed by this Court including *inter alia* order dated 5th March 2021.

6. Mr. Shah submits that Defendant no. 1 now wishes to challenge this document by leading the evidence of the said handwriting expert to prove that the signature of the deceased on this letter is fabricated. He states that notwithstanding that the existence of the document was known to his client since at least March 2021, a copy of the same was furnished to Defendant no. 1 only pursuant to an application dated 9th October 2025 preferred by his client by which she had sought a certified copy of the said letter. He therefore submits that Defendant no. 1 did not lead any evidence on this document in her three Affidavits filed between March 2025 – July 2025.

7. Mr. Bharucha, objects to this request and submits that the handwriting expert cannot be permitted to analyse and give his expert evidence on a document which is not on the record of this Court and in respect of which Defendant no. 1 has till date, laid no foundation thereof. He states that whilst Defendant no. 1 may not be a handwriting expert herself, in her deposition, she ought to have questioned this document especially when she has filed three affidavits in lieu of examination-in-chief despite knowledge of this document and her cross-examination also being concluded on 12th September 2025.

8. He further submits that nothing prevented Defendant no. 1 from making any such application to the Prothonotary and Senior Master for a certified copy of this letter prior to filing her evidence Affidavits in March 2025 – July 2025 and in any event, prior to the conclusion of her cross-examination in September 2025. He submits that this was not done deliberately to prolong the trial, and the said application for certified copy was made only after her cross-examination was concluded. He therefore submits that the said document cannot be permitted to be introduced indirectly through a handwriting expert when no positive evidence disputing the signature of the deceased on the said letter has been led by Defendant no. 1.

9. Having heard the parties, this Court is inclined to agree with the Plaintiff. If Defendant no. 1 disputed this letter dated 6th March 2004 and it was her case that the signature of the deceased on this letter was forged and that no such application for issuance of a duplicate share certificate was made by him by that letter, nothing prevented her from deposing to that effect in her evidence. There is no positive assertion disputing this letter and/or its contents made by Defendant no. 1. Her evidence is now concluded, and only re-examination remains. In such circumstances, when no positive case has been led by Defendant no. 1 on this document, this Court is not inclined to permit her to lead the evidence of a handwriting

expert, viz. Mr. J. S. Landge on the contents of this document, viz. signature of the deceased appearing thereon. Accordingly, the request of Defendant no. 1 to that effect is rejected.

10. By an order dated 11th November 2025, this Court had directed that the re-examination of DW-1 is required to be done in Court. Mr. Gauraj Shah states that Defendant no. 1 is not present in Court today considering that today's hearing was scheduled for a different reason.

11. Accordingly, Defendant no. 1 is directed to remain present in Court on the next date. However, on or before 23rd April 2026, Defendant no. 1 shall circulate a list of questions that are proposed to be put to DW-1 in the re-examination to the Plaintiff's Advocate.

12. Place the matter for re-examination on 27th April 2026 at 4:45 pm.

(FARHAN P. DUBASH, J.)

Shubham Gadhavepatil