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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 6th May, 2026

Uploaded on: 8th May, 2026

+ **RFA(COMM) 307/2026 & CM APPL. 30211/2026**

STATE BANK OF INDIA

.....APPELLANT

Through: Ms. Navruti Ojha, Adv.

versus

SACHIN KUMAR

.....RESPONDENT

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

Prathiba M. Singh J.,(Oral)

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed by the Appellant under Section 13 of the Commercial Courts Act, 2015 read with Section 96 and Order XLI of the Code of Civil Procedure, 1908, *inter alia*, assailing the impugned *ex-parte* judgement and decree dated 10th April, 2026 passed by the Id. District Judge, Commercial Court-03, South District, Saket Courts, New Delhi in *C.S. (Comm) 350/2025* titled '*State Bank of India v. Sachin Kumar*'.
3. *Vide* the impugned judgement, the suit of the Appellant has been dismissed in the following terms:

“[...]”

14. **It is, therefore, concluded that plaintiff, on account of not filing proper documents or original thereof in support of its claim has failed to prove its case against the defendant on the threshold of preponderance of probabilities. The fact that**



*defendant is ex-parte will not absolve the plaintiff from proving its case against the defendant on the basis of preponderance of probabilities. This view was taken by this Court in another matter was upheld by Hon'ble Delhi High Court in **RFA (Comm) 233/2025 - Outlook Publishing India Private Limited Vs. R.R.Solutions decided on 06.05.2025.***

Accordingly, the suit filed by plaintiff is dismissed.

4. The brief background of the present case is that, a suit was filed by the State Bank of India (*hereinafter, 'Bank'*) against the Respondent- Mr. Sachin Kumar.
5. The Respondent - Mr. Sachin Kumar had availed a personal loan *vide* the loan agreement, for a sum of Rs. 4,00,000/-, in respect of loan Account No. 42209596082.
6. The Respondent had to clear the loan amount in 72 equal monthly instalments of Rs. 7,831/- each. However, there was a failure by the Respondent in clearing the loan of Rs. 4,00,000/-.
7. The Bank issued notices to the Respondent. In addition, pre-litigation mediation was also attempted, however, the Respondent did not appear.
8. The *C.S. (Comm) 350/2025* was also proceeded *ex-parte* as the Respondent did not appear.
9. Before the Commercial Court, the Bank led evidence and had filed the evidence of *PW-I*, Mr. Sandeep Kalwaniya, the Authorized Representative of the Bank, and had also produced all the documents.
10. Further, the statement of *PW-I*, Mr. Sandeep Kalwaniya was also recorded. However, the suit has been dismissed by the Commercial Court on



the ground that the original documents have not been produced by the Appellant. In this regard, the reasoning given by the Id. Commercial Court is set out below:

“[...]

9. *The plaintiff examined PW1/Sandeep Kalwaniya, Assistant Manager/AR of the plaintiff bank, State Bank of India at PBB, Hauz Khas, New Delhi-110016. PW1 during his testimony exhibited the following documents:*

- i. Copy of the gazette dated 27.03.1987 as **Ex.PW1/1**.*
- ii. Copy of ID cards of both as **Ex.pw1/2(colly)**.*
- iii. Copy of KYC documents along with salary proof as **Ex.PW1/3(colly)**.*
- iv. Copy of letter of arrangement dt. 25.08.2023 as **Ex.PW1/4**.*
- v. Copy of personal loan agreement as **Ex.PW1/5**.*
- vi. Copy of irrevocable standing instructions as **Ex.PW1/6**.*
- vii. Copy of account statement with certificate duly certified under Section 63(4)(c) of Bhartiya Sakshya Adhinyam, 2023 as **Ex.PW1/7**.*
- viii. Certificate under Section 63(4)(c) of the Bhartiya Sakshya Adhinyam, 2023 as **Ex.PW1/8**.*
- ix. Speed post receipt as **Ex.PW1/9**.*
- x. Original loan starter report dated 01.07.2025 as **Ex.PW1/10**.*

10. *Since, defendant was proceeded ex-parte, PW1 Sandeep Kalwaniya was not cross examined and the testimony of PW1 remain unchallenged and rebutted.*

11. *Plaintiff's claim of recovery of Rs. 3,45,000/- against the defendant is based on advancement of loan of Rs. 4 lacs by plaintiff to defendant. **In this regard, plaintiff has filed copy of arrangement letter which was taken on record as Ex. PW-1/4. This document is a photocopy. As per Section 59 of the Bharatiya Sakshya Adhinyam, 2023 (BSA), documents***



must be proved by primary evidence except in cases mentioned in Section 60 of Bharatiya Sakshya Adhinyam, 2023 (BSA). Primary evidence is defined in Section 57 of Bharatiya Sakshya Adhinyam, 2023 (BSA) as a document itself produced for the inspection of Court. Since, the original documents were not produced by plaintiff, photocopies thereof becomes inadmissible in evidence as plaintiff's case is not covered by any of the clauses of Section 60 of Bharatiya Sakshya Adhinyam, 2023 (BSA) which deals with secondary evidence. Therefore, photocopy of arrangement letter dated 25.08.2023 is inadmissible in evidence and will not advance the case of plaintiff.

12. Similarly, personal loan agreement Ex.PW-1/5 is also a photocopy and will be inadmissible in evidence for the same reasons.

13. Other document viz. Irrevocable Standing Instructions Ex. PW-1/6 given by defendant is also a photocopy. Even the statement of account Ex. PW-1/7 does not appear to be computer generated copy. Rather it appears to be photocopy of computer generated copy and hence, any certificate under Section 63 (4)(c) of Bhartiya Sakshya Adhinyam/Section 2(A) of Bankers Book Evidence Act will not prove the account statement Ex. PW-1/7.”

11. Ld. Counsel for the Appellant submits that the authorised representative who had appeared as a witness had carried all the original documents, and it was due to this very reason that the documents were exhibited by the Commercial Court. However, unfortunately, the fact that the original documents were produced at the time of recording the statement of the witness, does not find any mention in the impugned judgement. It is further submitted that, due to this reason the suit has been dismissed by the Id. Commercial Court.



12. The Court has also perused the evidence of **PW-1**, Mr. Sandeep Kalwaniya. The statement of the said witness is set out below:

*“CS (COMM) 350/25
STATE BANK OF INDIA VS. SACHIN KUMAR
23.01.2026*

EX-PARTE EVIDENCE

PW1- Statement of Mr. Sandeep Kalwaniya, Assistant Manager/ AR of the plaintiff bank, State Bank of India at PBB, Hauz Khas, New Delhi-110016, aged about 31 years.

on S.A.

I tender my evidence by way of affidavit Ex. PW1/A which bears my signature at point A and B. I rely upon following documents:

- 1. True copy of the gazette dated 27.03.1987 is as **Ex.PW1/1**.*
- 2. True copy of ID cards of both are as **Ex.PW1/2 (colly)**.*
- 3. True copy of KYC documents along with salary proof are as **Ex.PW1/3 (colly)**.*
- 4. True copy of letter of arrangement dt. 25.08.2023 is as **Ex.PW1/4**.*
- 5. True copy of personal loan agreement is as **Ex.PW1/5**.*
- 6. True copy of irrevocable standing instructions is as **Ex.PW1/6**.*
- 7. True copy of account statement with certificate duly certified under Section 63 (4) (c) of Bhartiya Sakshya Adhinyam, 2023 is as **Ex.PW1/7**.*
- 8. Certificate under Section 63 (4) (c) of the Bhartiya Sakshya Adhinyam, 2023 is as **Ex.PW1/8**.*
- 9. Copy of speed post receipt is as **Ex.PW1/9**.*
- 10. Original non starter report dated 01.07.2025 is as **Ex.PW1/10**.”*

13. A perusal of the above statement would show that the copies of the documents are being exhibited. If the original documents had not been produced, the exhibit marks could not to have been assigned to the said



documents. When original documents are not produced, the correct practice is merely to mark the documents for identification and not to exhibit the same.

14. Be that as it may, the Commercial Court ought to have recorded the fact that original documents were produced. If the original documents were not produced, the documents could not have been exhibited. The recording of the statement and the marking of the exhibits itself would mean that the original documents were produced.

15. In any case, even at the final stage, if the Respondent has been proceeded *ex-parte*, and the Court was of the opinion that the original documents ought to be perused or produced before it, an opportunity ought to have been given to the Bank to produce the same. The dismissal of the suit in this manner was completely unwarranted.

16. Today, Id. Counsel for the Appellant has produced a folder consisting of all the original documents. The loan agreement and other relevant documents are on a green paper and bear signatures of the Respondent and the stamp of the bank.

17. Further, the statement of the Id. Counsel for the Appellant is taken on record, to the effect that the original documents were produced before the Id. Commercial Court.

18. Under these circumstances, this Court is of the view that the Appellant ought to be given another opportunity to produce the original documents once more before the Id. Commercial Court.

19. Accordingly, the impugned judgement is set aside.

20. The Appellant is given an opportunity to produce the original documents before the Commercial Court, and the Commercial Court shall adjudicate the matter afresh, after perusing the original documents.



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21. The folder consisting of all the original documents is returned to the Id. Counsel for the Appellant.
22. The Respondent has been *ex-parte* all along, in the suit, and hence this Court did not deem it necessary to issue any notice in this matter, as the matter is being remanded to the Id. Trial Court.
23. The appeal is allowed and disposed of in the above terms. All pending applications, if any, are also disposed of.
24. Let the matter be listed before the Id. Trial Court on 7th July, 2026.

**PRATHIBA M. SINGH
JUDGE**

**MADHU JAIN
JUDGE**

MAY 6, 2026/da/prg/sm