



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

SECOND APPEAL NO. 236 OF 2025

1] Rupali Baliram Gaikwad
Age-30 years, Occupation-Advocacy,
R/o. Navgan College, Beed. **..Appellant**

VERSUS

1] Vikas Namdev Mali
Age : 48 years, Occ.Service (Sr.Clerk),
2] Sayyad Mohammad Rafi Sarwar
Age : 54 years, Occ.Service
Both R/o. Sub-Head Account Office,
Osmanabad, Tq. & Dist.Osmanabad. **..Respondents**

Advocate for Appellant : Mr.R.D.Bhise
Advocate for Respondent Nos.1 and 2 : Mr.A.M.Gaikwad (Absent)

CORAM : SHAILESH P. BRAHME, J.

DATE : 26.08.2025

FINAL ORDER :

1. The appellant who is original-plaintiff is non suited for recovery of amount of Rs.29795/- by both the courts below. Hence, she is before this Court.
2. Appeal was heard at length on 20.08.2025. Time was sought to take written instructions from the client for withdrawal of the suit. Today, learned counsel seeks conditional withdrawal which can not be

permitted. I am constrained to decide the matter on merits.

3. Appellant runs a business near office of *panchayat samiti* at District Beed of job and copying work. It is pleaded that in the year 2008–09, respondents availed services of the appellant but did not pay her. The ledger is maintained by the appellant and there is acknowledgment of the officers of the respondents. Respondents had agreed to pay Rs.1/- per copy. It is contended that despite repeated demands, respondents didn't clear the dues. Hence, suit is filed for recovery of Rs.29,795/-.

4. The claim is contested by respondents in written statements denying all the pleadings. It is contended that there was no contract between the parties. The respondents were already having requisite machines for copying work and there was no necessity for getting it done from the appellant. The signatures on the ledger are denied.

5. Both the courts below decided against the appellant. The evidence led by appellant is found to be incompatible to grant her any relief.

6. Learned counsel for the appellant pressed into service substantial questions of law appearing in the appeal memo. It is submitted that documentary evidence was not considered in proper manner. The acknowledgment of the officers and the ledger is not

appreciated.

7. I have considered judgments passed by both the courts below. After appreciating pleadings and the evidence on record, they have arrived at conclusions. It is not permissible to re-appreciate evidence. Appellant is unable to point out perversity or patent illegality in recording the findings. No case is made out to entertain the second appeal.

8. I have considered Exhibit-27. Appellant failed to bring on record adequate evidence that there was contract between the parties and respondents failed to pay the dues. There are no material particulars of the time when the copying work was done and number of copies being issued to the respondents. The reasons for discarding Exhibit-27 recorded by the trial court are plausible and no interference is called for. The register at Exhibit-27 is not sufficient to fasten liability on the respondents. Besides that suit filed by the appellant is also barred by time.

9. Second Appeal is dismissed.

[SHAILESH P. BRAHME, J.]

vsj