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

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Judgment Delivered on: 28.01.2026

+ TEST.CAS. 3/2001

SIMRIN SINGH

.....Petitioner

Through: Mr. Rishabh Bansal and Mr. Vinayak
Goyal, Advs.

versus

STATE & ORS

.....Respondents

Through: Mr. Alok Kumar, Sr. Adv. with Ms.
Manisha A. Narain, Mr. Amit Kumar
Singh, Mr. Varun Maheshwari, Mr.
Manan Soni and Mr. Ujjwal Tyagi,
Advs. for R-2.**CORAM:****HON'BLE MR. JUSTICE VIKAS MAHAJAN****JUDGMENT****VIKAS MAHAJAN, J (ORAL)****I.A. 25833/2025 (under Order VIII Rule 1A(3) read with Section 151
CPC by R-2)**

1. The present application has been filed by respondent no.2 to place on record certain original medical documents pertaining to late Ms. Kusum Kaur, which have been enumerated in para 8 of the application.
2. Mr.Alok Kumar, learned senior counsel appearing on behalf of the respondent no.2/applicant submits that the present Test Case has been filed seeking probate in respect of the Will dated 05.06.1996.
3. He submits that the petition was filed by late Smt. Kusum Kaur, who expired on 04.02.2008. After the demise of late Smt. Kusum Kaur, her son Harikrat Singh moved an application under Order XXII Rule 4 CPC seeking his substitution in the present petition. However, during pendency of the said



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application Harkirat Singh also passed away on 19.10.2010. Thereafter, the daughter of Harkirat Singh namely, Simrin Singh (petitioner) filed separate application under Order XXII Rule 4 CPC i.e. I.A. 1237/2011 seeking her substitution, which was allowed by this Court *vide* order dated 27.05.2016.

4. Mr. Kumar has further invited attention of the Court to the order dated 27.05.2016 to contend that *vide* said order, the Court also has framed following three issues, out of which two issues pertain to the validity and legality of the Wills left by late Smt. Kusum Kaur, as well as, late Sh. Harkirat Singh:

“(i) Whether Smt. Kusum Kaur died leaving behind her last valid Will dated 30.9.2002? OPP

(ii) Whether Sh. Harkirat Singh died leaving behind his last valid Will dated 4.4.2004? OPP

(iii) Whether it is not required for the present petitioner Smt. Simrin C. Singh to prove the testamentary instrument dated 4.4.2004 of Sh. Harkirat Singh, inasmuch as, the petitioner is the daughter and the natural heir of late Sh. Harkirat Singh, and to what effect? OPP”

5. He submits that while preparing for the cross examination of one of the petitioner’s witness namely Jayshree Thapar, the counsel for respondent no.2 came across the statement made by the said witness in her affidavit by way of Examination-in-Chief that late Smt. Kusum Kaur ‘*was in sound disposing state of mind at that time*’.

6. He submits that thereafter, the respondent no.2/applicant searched for the medical records of late Smt. Kusum Kaur and could find in the old papers the original medical records pertaining to her which have been



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enumerated in para 8 of the application.

7. He has invited attention of the Court to the said medical record filed in original alongwith the application, to contend that perusal of the said documents shows that late Smt. Kusum Kaur was suffering from various ailments like Dementia, Cerebral Atrophy etc. for which she was under treatment.

8. He contends that earlier the said documents were not within the reach of respondent no.2/applicant.

9. He submits that the present petition pertains to the probate of the Will dated 05.06.1996 of late Sh. Sant Singh. The case set up by the petitioner is that the Will executed by late Sh. Sant Singh bequeaths entire estate in favour of late Smt. Kusum Kaur, whose Will has also been propounded in the present petition.

10. He submits that the case of the respondent no.2 is that late Smt. Kusum Kaur died intestate and her Will is not a validly executed Will. In the event the respondent no.2/applicant succeeds in her case, she will be entitled to 1/3rd share in the estate of late Sh. Sant Singh.

11. He, therefore, urges that the medical record are relevant to prove the medical condition of late Smt. Kusum Kaur at the time of execution of her Will, which has been set up by the petitioner and is being disputed by the respondent no.2/applicant.

12. He places reliance on the decision of this Court in TEST. CAS. 67/2021 titled *Ms. Asha Mishra @ Asha Misra vs. State through Standing Counsel & Anr., 2024 SCC OnLine Del 5544*.

13. Mr. Rishabh Bansal, learned counsel appearing on behalf of the petitioner on the other hand submits that the affidavit of Ms. Jayshree



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Thapar was filed as early as in the year 2017 whereas the present application has been filed only on 08.10.2025, almost after 08 years of filing of such affidavit.

14. He submits that there is inordinate delay in filing such application for which no justification has been put forth by the respondent no.2/applicant.

15. He further contends that one of the documents (MRI report from Mahajan Imaging Centre) which is sought to be placed on record by way of present application is already on record, therefore, the contention of the respondent no.2/applicant that the said documents were out of the reach of respondent no.2/applicant is fallacious.

16. He, therefore, urges the Court that the present application being highly belated be dismissed.

17. He places reliance on the decision of Hon'ble Supreme Court in ***Naresh Arneja vs. Atul Gupta, 2022 SCC OnLine Del 2933.***

18. In rejoinder, Mr. Alok Kumar, contends that insofar as one of the documents which the petitioner states to be on record is a copy of the report of Mahajan Imaging Centre and the same was placed on record not by the respondent no.2/applicant but by the respondent no.3/non-applicant.

19. He submits that the reasons for not filing documents earlier and delay in that behalf has been sufficiently explained in the application itself inasmuch as the case set up by the respondent no.2/applicant in the application is that the need for the document was felt only at the time of preparation of cross examination of Ms. Jayshree Thapar, who was, cross examined on 24.09.2025. The said witness has specifically testified that late Smt. Kusum Kaur '*was in sound disposing state of mind at that time*'. It is thereafter that the respondent no.2/applicant searched for the relevant record.



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20. I have heard Mr. Alok Kumar, learned senior counsel appearing on behalf of the respondent no.2/applicant and Mr. Rishabh Bansal, learned counsel appearing on behalf of the petitioner/non-applicant.

21. The present application has been filed by the respondent no.2 at a stage when the petitioner's evidence is still being recorded.

22. By way of present application, the petitioner has sought to file the following documents:

S.No.	Particulars
1.	<i>Original medical prescription dated 20.06.1998 by Dr. (Col.) P.K. Sethi of Ms. Kusum Kaur</i>
2.	<i>Original medical prescription dated 17.07.2000 by Dr. (Col.) P.K. Sethi of Ms. Kusum Kaur</i>
3.	<i>Original medical prescription dated 05.07.2002 by Padma Shri Dr. (Col.) P.K. Sethi of Ms. Kusum Kaur</i>
4.	<i>Original Medical report of MRI Scan of Ms. Kusum Kaur dated 16.04.2002.</i>
5.	<i>Original medical prescription dated 08.06.2004 by Dr. (Col.) P.K. Sethi at Sir Ganga Ram Hospital of Ms. Kusum Kaur</i>
6.	<i>Original Medical report of MRI Scan of Ms. Kusum Kaur dated 07.10.2006 referred by Dr. B.B. Mathur</i>
7.	<i>Original Medical prescription dated 20.01.2000 by Dr. B.B. Mathur of Ms. Kusum Kaur</i>
8.	<i>Original Medical prescription dated 03.10.2000 by Dr. B.B. Mathur of Ms. Kusum Kaur</i>
	<i>Original report of Bone scan dated 24.03.2000 of Ms. Kusum Kaur</i>

23. This Court has perused the said documents with the assistance of Mr. Alok Kumar. The said documents suggest, *prima facie* that late Smt. Kusum Kaur was being treated for the ailments like Dementia, Cerebral Atrophy etc. The said documents are for the period starting from 20.06.1998 till



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03.10.2000 and the date of the Will of late Smt. Kusum Kaur is 30.09.2002, which subsequent to the said period, therefore, the documents are relevant for adjudicating the issue framed in the present petition with regard to the validity of said Will. Thus, such documents are necessary for doing substantial justice.

24. Further, an explanation has also been put forth by respondent no.2/applicant for not filing the additional documents at an earlier point of time. It has been stated in the application and so articulated by Mr. Alok Kumar that need for filing medical records was felt only when the learned counsel for the applicant was preparing for the cross-examination of one of the witnesses examined by the petitioner namely, Ms. Jayshree Thapar, who was cross-examined on 24.09.2025. The said witness had specifically testified that Late Smt. Kusum Kaur '*was in sound disposing state of mind at that time*', which according to the respondent no.2/applicant is not the correct factual position.

25. A fair opportunity thus, needs to be afforded to the respondent no.2/applicant to bring on record the additional documents to rebut the case of the petitioner to the effect that the Will of late Smt. Kusum Kaur is a validly executed Will.

26. In the considered opinion of this Court no serious prejudice will be caused to the petitioner if respondent no.2/applicant is allowed to place on record additional documents as the petitioner will have fair chance to cross examine the witnesses of respondent no.2, who steps into the witness box to prove the said documents.

27. The law is well settled that the Court should take lenient view whilst deciding an application for production of documents under Order VIII Rule



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1A(3) CPC. It is equally settled that procedural rules must not be read to defeat the basic purpose of statute or hamper justice unless the violation of procedure would itself amount to grave injustice.

28. The Hon'ble Supreme Court in *Sugandhi (Dead) by Legal Representatives and Another vs. P. Rajkumar, represented by his Power Agent Imam Oli, (2020) 10 SCC 706* has also observed that the Court should take lenient view when an application is made for production of additional documents. The procedure and technical hurdles shall not be allowed to come in the way of the Court while doing substantial justice. The relevant extract from the said decision reads thus:

“7. Sub-rule (1) mandates the defendant to produce the documents in his possession before the court and file the same along with his written statement. He must list out the documents which are in his possession or power as well as those which are not. In case the defendant does not file any document or copy thereof along with his written statement, such a document shall not be allowed to be received in evidence on behalf of the defendant at the hearing of the suit. However, this will not apply to a document produced for cross-examination of the plaintiff's witnesses or handed over to a witness merely to refresh his memory. Sub-rule (3) states that a document which is not produced at the time of filing of the written statement, shall not be received in evidence except with the leave of the court. Rule 1(1) of Order 13 CPC again makes it mandatory for the parties to produce their original documents before settlement of issues.

8. Sub-rule (3), as quoted above, provides a second opportunity to the defendant to produce the documents which ought to have been produced in the court along with the written statement, with the leave of the court. The discretion conferred upon the court to grant such leave is to be exercised judiciously. While there is no straitjacket formula, this leave



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can be granted by the court on a good cause being shown by the defendant.

9. It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the court should take a lenient view when an application is made for production of the documents under sub-rule (3).”

(emphasis supplied)

29. Similarly, in *Levaku Pedda Reddamma & Ors. vs. Gottumukkala Venkata Subbamma & Anr.*, Civil Appeal No. 4096/2022 dated 17.05.2022, the Hon’ble Supreme Court took a liberal view in allowing the application under Rule 1A (3) of Order VIII CPC. The Court observed that to deprive a party to the suit, not to file documents even if there is some delay will lead to denial of justice. Even if there is some delay, the Court should impose some costs rather than to decline the production of the documents itself. The relevant para of the judgment reproduced as under: -

“The defendant Nos. 2 to 5 are in appeal aggrieved against the order passed by the High Court affirming the order passed by the trial Court refusing to permit the appellant to produce additional documents in terms of Order VIII Rule 1 of the Code of Civil Procedure.

We find that the trial Court as well as the High Court have gravely erred in law in not permitting the defendants to produce documents, the relevance of which can be examined



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by the trial Court on the basis of the evidence to be led, but to deprive a party to the suit not to file documents even if there is some delay will lead to denial of justice.

It is well settled that rules of procedure are hand-maid of justice and, therefore, even if there is some delay, the trial Court should have imposed some costs rather than to decline the production of the documents itself.”

(emphasis supplied)

30. The reliance placed by Mr. Bansal on the decision in *Naresh Arneja* (supra) does not advance the case of the petitioner inasmuch as in the said case no reason had been put forth as to why the documents were not filed earlier. The only averment made was that the applicant therein desired to file the documents, whereas in the present case the explanation, as noted above, has been given for not filing the additional documents at an earlier point of time.

31. In view of the above discussion and in light of the law expounded by the Hon'ble Supreme Court, the present application is allowed and additional documents are taken on record, subject to payment of cost of Rs. 1 Lakh to be paid by the respondent no.2/applicant to the petitioner.

32. Resultantly, the respondent no.2/applicant is allowed to prove the additional documents in accordance with law.

33. The application stands disposed of.

VIKAS MAHAJAN, J

JANUARY 28, 2026

N.S. ASWAL