



2025:DHC:6552



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

+ **TEST.CAS. 84/1986**

Date of Decision: **29.07.2025**

IN THE MATTER OF:

- 1. SMT. ANILA JAIN**
W/O LATE SHRI SATISH KUMAR JAIN
- 2. MR. ANKIT JAIN**
S/O LATE SHRI SATISH KUMAR JAIN
- 3. SH. ANKUR JAIN**
S/O LATE SHRI SATISH KUMAR JAIN
ALL RESIDENTS OF L-11/14,
DLF CITY PHASE 2, GURUGRAM- 122008

(LEGAL HEIRS OF DECEASED SATISH KUMAR JAIN)

.....Petitioners

Through: Ms Payal Jain with Mr Mohd. Naved,
Advocates.

versus

- 1. STATE**
- 2. SMT. BIMLA DEVI JAIN (DECEASED THR. LRS.)**
(RELATION NO.1)
WIDOW OF LATE SHRI DAYA CHAND JAIN
- 3. SHRI SUSHIL KUMAR JAIN (RELATION NO.2)**
S/O LATE SHRI DAYA CHAND JAIN THROUGH HIS LR's
 - A. SMT. BIMLA DEVI (MOTHER)**
 - B. SMT. JIWANLATA JAIN (WIFE)**
 - C. SUDHIR KUMAR JAIN (SON)**



2025:DHC:6552



D. SANJAY KUMAR JAIN (SON)

ALL R/O H.NO.
24, NEW ROHTAK ROAD NEW DELHI

E. DR. SHAMMI JAIN @ DR. SHALINI
WIFE OF DR. ALOK RASTOGI (DAUGHTER)
R/O 66-UB, JAWAHAR NAGAR, DELHI

F. MRS. MANISHA JAIN
WIFE OF SHRI SANJAY JAIN (DAUGHTER)
R/O 1/66, SARVPRIYA VIHAR, DELHI

G. DR. NAMITA JAIN
R/O K-19, KALKAJI, DELHI.

4. SHRI RAJENDER KUMAR JAIN (RELATION NO.3)
S/O LATE SHRI DAYA CHAND JAIN
(DECEASED) THROUGH LEGAL HEIRS

A. ADESH RANI JAIN (WIDOW)

B. MASTER RAJAN JAIN (SON)
BOTH RESIDENTS OF :
24, NEW ROHTAK ROAD, NEW DELHI.

C. KARUNA JAIN @ RINKY JAIN (DAUGHTER)

D. NIDHI JAIN @ PINKI JAIN (DAUGHTER)

E. AMIT JAIN (SON) ;
ALL RESIDENTS OF :
5/5781, DEV NAGAR, KAROL BAGH, NEW DELHI

5. MS. ANITA JAIN (RELATION NO.5)
D/O LATE SHRI DAYA CHAND JAIN (SINCE DECEASED)
HER NAME WAS DELETED FROM THE ARRAY OF
PARTIES VIDE ORDER DATED 21.08.1999)

6. SMT. SHARDA KUMAR JAIN (RELATION NO.6)
D/O- LATE SHRI DAYA CHAND JAIN



2025:DHC:6552



W/O SINT. SUMAT PRASAD
R/O Q-12A, NAVEEN SHAHDARA, BHOLA NATH
NAGAR, DELHI-1 10032
FORMERLY RESIDENT AT:
21-A, ANSARI ROAD, DARYA GANJ, NEW DELHI,

- 7. SMT. PUSHPA KUMARI JAIN (RELATION NO.7)**
D/O LATE SHRI DAYA CHAND JAIN
W/O SHRI SURESH KUMAR JAIN
R/O FU- 23, PITAMPURA, VISHAKA ENCLAVE, DELHI-
110034
FORMERLY RESIDENT AT;
4573, MAHABIR BAZAR, CLOTH MARKET, DELHI
- 8. SMT. MAYA DEVI JAIN (RELATION NO.8)**
D/O LATE SHRI DAYA CHAND JAIN
W/O LATE SHRI SUBHASH CHAND JAIN
R/O 37, MODEL BASTI, NEW DELHI.
- 9. SMT. ASHA JAIN (RELATION NO.9)**
D/O LATE SHRI DAYA CHAND JAIN
W/O SHRI SUNIL KUMAR JAIN
R/O B1/209, C.A. APARTMENTS, PASCHIM VIHAR,
DELHI-110063
FORMERLY AT
CANARA BANK, WAZIRPUR BRANCH, DELHI.

.....RESPONDENTS

Through: Mr Avni Singh with Mr Abhishek
Yadav, Advocate for GNCTD.
Ms Ishita Jain, Advocate for R3b.
Mr Rajat Aneja with Mr Aditya
Sharma and Ms Chandrika Gupta,
Advocates for R3c and R3d.
Advocate for R4b and R4c –
Appearance not given.
Ms Arati Mahajan Shedha, Advocate
for R4d.



CORAM:
HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

J U D G E M E N T

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

I.A. 42552/2024 (application filed under Order VII Rule 14 CPC)

1. This is an application filed under Order VII Rule 14, read with Section 151 of the CPC, for placing on record additional documents.
2. Learned counsel appearing for the applicant has drawn the attention of the Court to various dates and events, submitting that the documents in question bear direct relevance to the controversy at hand in the present testamentary proceedings. It is contended that these documents could not be placed on record earlier due to extenuating circumstances, including the demise of the original petitioner and the protracted pendency of the application for substitution of his legal heirs.
3. Learned counsel further submits that, during the cross-examination of the original petitioner in the year 2016, a specific query was raised regarding photographs of the marriage ceremony involving the original petitioner, to which he responded that he was not in possession of any such photographs. However, it has now come to light during the pendency of these proceedings that certain photographs were in the possession of the brother-in-law of the original petitioner. Accordingly, by way of the instant application, these photographs are sought to be brought on record by the applicant.
4. The application is strongly opposed by learned counsel appearing for respondent nos. 3b, 3c, 3d and 4d. Ms. Ishita Jain, learned counsel appearing on behalf of respondent no. 3b, submits that immense prejudice would be caused to the respondent if the documents are taken on record at this stage.



5. She has drawn the attention of the Court to a decision of the Madras High Court in the case of *Unnikrishnan v. State*¹, to argue that unless the negatives of the photographs are brought on record, the photographs themselves would have no evidentiary value. She refers to paragraph 51 of the decision contending that in the cameras of the old days, the negative is the primary evidence and photo of the same can be treated only as secondary evidence, whereas if a photograph is clicked through a digital camera, the question of producing the negatives may not arise. Since the impugned photographs are stated to be taken over 40 years ago, according to her, the negatives are primary evidence and thus, essential. It has also been submitted that at this point, the respondent may not be able to cross-examine the petitioner, as the petitioner has expired.

6. Mr. Aneja, learned counsel appearing for respondent nos. 3c and 3d, has contended that after 35 years from the institution of the suit, the photographs, which are actually of the year 1982, should not be allowed to be taken on record. It is submitted that the introduction of such photographs cannot be treated as *bona fide* conduct on the part of the petitioner. It is further submitted that there is a reason as to why the brother-in-law of the original petitioner kept these photographs, and the original petitioner himself was not able to produce them before the Court. The genuineness of the documents is therefore doubted, and it is contended that, in view of the decision passed by this Court in *Polyflor Limited v. A.N. Goenka*², the photographs in question ought not to be taken on record. Reliance has been placed on paragraphs nos. 17 and 18 of the said decision, and those

¹ 2011 SCC OnLine Mad 2902

² 2016 SCC OnLine Del 2333



2025:DHC:6552



paragraphs have been extensively read out before the Court.

7. Learned counsel appearing for respondent nos. 4b and 4c, contends that the petitioner had come to know about the existence of the photographs as early as the year 2018. It is, therefore, contended that no reason exists as to why, in the year 2024, after a lapse of six years from the date of such knowledge, the photographs are sought to be brought on record. It is further contended that, in addition to the arguments advanced by learned counsel appearing for respondent nos. 3b, 3c, and 3d, the deliberate delay on the part of the petitioner in producing these documents ought to be considered. She has drawn the attention of the Court to I.A. 4047/2024 to substantiate the said submission.

8. In rejoinder, Ms. Jain, learned counsel appearing for the petitioner, submits that the question regarding the photographs was first posed to the original petitioner in the year 2016. Since the original petitioner was not in possession of the documents at that time, no occasion arose for placing them on record. It is further contended that, although the original petitioner became aware of the existence of the documents in the year 2018, he unfortunately expired in the year 2019. Thereafter, the matter remained pending until 2022 due to the protracted pendency of various applications, including those for the substitution of legal heirs.

9. It is submitted that the documents were initially sought to be produced through a witness. However, upon an objection being raised by the opposing side, a formal application has been filed by the petitioner. The delay having been occasioned on account of these *bona fide* reasons, it is contended that the same be condoned in the interest of justice. It is additionally submitted that the proceedings have been pending since 1986, and the evidence on



2025:DHC:6552



behalf of the petitioner has not yet been concluded. Accordingly, it is urged that, at this stage, the documents be permitted to be brought on record, while reserving all rights and contentions of the respondents.

10. I have considered the submissions made by learned counsel appearing for the parties and have perused the record.

11. There is no dispute with respect to the legal proposition as propounded by Mr. Aneja, learned counsel appearing for respondent nos. 3c and 3d. In *Polyflor Limited*, it has been held that, unless a reasonable cause is shown for the non-disclosure and non-filing of the documents, the same ought not to be permitted to be brought on record after the framing of issues. It also remains undisputed in the instant case that the issues were framed in the year 1988.

12. However, the attention of the Court has been drawn to the various intervening circumstances as pointed out by the applicant in the instant application. The facts of the case clearly indicate that the original petitioner, namely Late Satish Kumar Jain, was cross-examined on 19.09.2016. He was queried about photographs of his marriage ceremony, to which he responded in negative, stating that he was not in possession of any such photographs. The aspect bearing relevance in the instant case is whether Mr. Daya Chand Jain, the father of the original petitioner, late Satish Kumar Jain, attended the marriage of late Satish Kumar Jain in the year 1982. More importantly, the ceremony is stated to have taken place at Jaipur.

13. The aforesaid aspect with respect to the controversy involved in the instant case seems not to be disputed by the parties. The facts further indicate that an application, namely I.A. 12901/2018, was filed by the original petitioner on 28.08.2018 for an amended list of witnesses. It is in



the said application that the additional witness, namely Mr. Vinod Kumar Jain, was included. The particulars of Mr. Vinod Kumar Jain and the purpose for which his evidence was sought are indicated therein, which are extracted as under:-

14	Mr Vinod Kumar Jain	<i>This witness shall confirm that the testator had attended the Petitioner's wedding and was healthy.</i>	<i>To produce photographs, which show that Shri Daya Chand Jain (the testator in the present case) had attended the wedding ceremonies of the Petitioner during April 1982 and was in good health at that time.</i>
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14. The said application was allowed *vide* order dated 20.09.2018. It is thus observed that the Court had taken into consideration in the order dated 20.09.2018 to the relevance of the witness, which was indicated to produce photographs depicting the presence of Mr. Daya Chand Jain, and his attendance at the wedding ceremony of the petitioner in April 1984, as well as his state of health at that time.

15. It also remains undisputed that Mr. Satish Kumar Jain expired on 19.07.2019, whereupon an application, namely I.A. 10299/2019, was filed by his legal heirs. The legal heirs were permitted to be impleaded *vide* order dated 20.05.2022. Subsequent to the impleadment of the legal heirs, an application was filed by the petitioner to summon the witnesses, and *vide* order dated 16.10.2023, summons were issued to witness nos. 9, 13, and 14 as per the list of witnesses dated 28.08.2018.

16. Appearance was made by Mr. Vinod Kumar Jain (witness no. 14) before the Court on 21.11.2023 through video conferencing, and he was further directed to appear on 08.01.2024. On 08.01.2024, a request was made by him to be permitted to tender evidence through video conferencing, which was opposed by the contesting respondents. At that juncture, certain



2025:DHC:6552



scanned photographs of the marriage ceremonies of Late Satish Kumar Jain and his sister Ms. Anila Jain were sent by Mr. Vinod Kumar Jain.

17. Those photographs appear to have been supplied to the contesting respondents, as stated in paragraph no. 9 of the application. An affidavit of evidence along with scanned documents was also sent by Mr. Vinod Kumar Jain. Thereafter, I.A. 4047/2024 was filed by the petitioner for placing on record the affidavit of Mr. Vinod Kumar Jain and for permitting him to appear as a witness for examination and cross-examination through video conferencing.

18. The said application was allowed on 16.07.2024. On 02.09.2024, PW-14 appeared before the Court for examination, producing wedding cards of the deceased original petitioner and an album of marriage ceremony photographs. Objections appear to have been raised by the contesting respondents regarding the placement on record of the album and the invitation card. Since no specific permission had been granted by the Court, the present application has been filed. In paragraph no. 16 of the application, petitioner sought to justify for the prayer on the following grounds:-

“16. It is submitted that the delay in filing the present application under Order 7 Rule 14 CPC to place the marriage Invitation Card of Shri Satish Kumar Jain and album containing photographs of deceased original petitioner's marriage ceremony, is neither intentional nor deliberate, as the same can be inferred from the below-mentioned facts:-

a. The documents i.e. wedding cards of the deceased original Petitioner and album of marriage ceremonies photographs cannot be filed along with pleading as the issue regarding attending the marriage of the deceased original Petitioner was never raised.

b. It was, for the first time, raised on 19. 09.2016, as stated above and the Petitioner categorically stated, that the Petitioner did not have the album of photographs to show his father attended his marriage.

c. It is also a matter of record that the original Petitioner took steps to amend his list of witnesses and added PW-14, Shri Vinod Kumar Jain



to produce photographs of his marriage ceremonies and the same was allowed by this Hon'ble Court vide order dated 20.09.2018.

d. Further, the present LRs of Petitioner were impleaded on 20.05.2022 as the original Petitioner expired on 19.07.2019.

e. The LRs of Petitioner received scanned copy of few photographs of marriage ceremonies in first week of January 2024 from PW-14 and the same was provided by the Petitioner to the contesting Respondents on 08.01.2024.

f. Further, the PW-14, Shri Vinod Kumar Jain sent his evidence by way of an affidavit along with photographs which are marked exhibited in his affidavit by post in February 2024, and accordingly, the same was filed on record.

g. The original wedding cards of the deceased original Petitioner and album of marriage ceremonies photographs were received from the PW-14, Shri Vinod Kumar Jain on 02.09.2024 by the Petitioner during court proceedings.”

19. Having considered the facts and circumstances of the case, the Court is of the considered opinion that the documents, namely the photographs, invitation card, and others, are relevant for the proper adjudication of the controversy involved in the instant case. The delay which has occurred has been properly explained by learned counsel appearing for the petitioner. As regards the objection raised by the respondents with respect to the genuineness of these documents, the same shall remain a subject matter for determination during the trial. If the documents are unable to be proved by the petitioner in accordance with the provisions of the Evidence Act, the necessary consequences shall follow. Even the genuineness of the documents cannot be gone into at this stage, as has been held by the Supreme Court in the case of ***Sudhir Kumar v. Vinay Kumar G.B***³. The relevant portion of the said decision reads as under:-

“10.3. Even the reason given by the learned Commercial Court that the invoices being suspicious and therefore not granting leave to produce the said invoices cannot be accepted. At the stage of granting leave to

³ (2021) 13 SCC 71



2025:DHC:6552



place on record additional documents the court is not required to consider the genuineness of the documents/additional documents, the stage at which genuineness of the documents to be considered during the trial and/or even at the stage of deciding the application under Order 39 Rule 1 that too while considering prima facie case. Therefore, the learned Commercial Court ought to have granted leave to the plaintiff to rely on/produce the invoices as mentioned in the application as additional documents.”

20. It be also noted that the controversy remains pending since 1986 and the evidence on behalf of the petitioner has not yet been concluded. While reserving the rights and contentions as observed in the aforesaid paragraph with respect to the genuineness of the documents, it is deemed appropriate to allow the application and to permit the petitioner to place on record the documents in question.

21. Accordingly, the instant application stands allowed, subject to the observations made in the preceding paragraphs.

TEST.CAS. 84/1986, I.A.13584/2007 & I.A.10550/2009

22. List before the concerned Joint Registrar on 07.08.2025, for fixing the date for cross-examination of PW-14, and thereafter, for remaining evidence. Let the trial of this case be expedited, as had already been observed *vide* order dated 16.07.2024.

PURUSHAINDR KUMAR KAURAV, J

JULY 29, 2025

tr/sp