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

% *Date of Decision: 06<sup>th</sup> August, 2025*

+ CM(M) 1457/2025 & CM APPL. 47900-47901/2025

SANJEEV KAPOOR (SINCE DECEASED) THR LRS .....Petitioner

Through: Mr. Parmeesh Takkar with Ms. Richa Takkar, Mr. Chaitanya Mehta, Mr. Kshitij Suri, Advocates.

versus

VIKAS SHARMA

.....Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**J U D G M E N T** *(oral)*

1. Petitioners are legal representatives of plaintiff and are aggrieved by order dated 16.05.2025 whereby their application moved under Section 151 CPC has been dismissed.
2. The suit in question was filed by Mr. Sanjeev Kapoor (since deceased).
3. However, before his unfortunate death, Mr. Sanjeev Kapoor entered into witness box and submitted his affidavit towards examination-in-chief and, thereafter, he was also cross-examined and discharged.
4. In such affidavit, he made reference to several documents and in support of his affidavit (examination-in-chief affidavit), he entered into witness box in 21.11.2023 and was also cross-examined by the defendants same day and, thereafter, on 18.12.2023 and 11.01.2024.
5. In his such examination conducted on 21.11.2023, he tendered in evidence his said affidavit and deposed before the Court that the such affidavit was EX-PW-1/A which was bearing his signatures at point A and B.
6. Mr. Sanjeev Kapoor, eventually, died on 28.11.2024.



7. The application in question was filed by his legal representatives whereby they merely wanted such affidavit to be formally exhibited.
8. According to them, the exhibit mark of EX-PW-1/A could not be put upon the affidavit and, therefore, they made request that such affidavit be given Exhibit Mark as per the deposition of deceased plaintiff.
9. On the basis of opposition coming from the side of defendant, such request has been declined.
10. Fact remains that the testimony has to be read *in toto* and even if, there is no formal exhibition mark, such omission, apparently on the part of the learned Trial Court, cannot cause any prejudice to the plaintiff.
11. The case is already at the stage of final arguments and while appreciating the testimony of the deceased plaintiff, the learned Trial Court would certainly take into consideration the affidavit filed by the deceased plaintiff, which he wanted to be exhibited as EX-PW-1/A, and the corresponding cross-examination and thereafter would return the requisite findings on the issues involved.
12. To that extent, even if there is any omission with respect to the exhibition mark being put on the affidavit, the same would not cause any prejudice to the case of plaintiff.
13. In view of the abovesaid clarification, since the petitioner does not seek any further relief, the petition stands disposed of in aforesaid terms.
14. Pending applications also stand disposed of in aforesaid terms.

**(MANOJ JAIN)**  
**JUDGE**

**AUGUST 6, 2025/sw/SHS**