



2026:DHC:3105



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

Date of Decision: 15th April, 2026

+ CM(M) 815/2026, CM APPL. 24108/2026 & CM APPL. 24109/2026
SMT JYOTIPetitioner

Through: Mr. Ayyub Ahmad, Advocate along
with petitioner in person.

versus

ANAND KISHORE (DECEASED) THROUGH LRS AND ANR
.....Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER (Oral)

Rajneesh Kumar Gupta, J.

1. This hearing has been conducted through hybrid mode.
2. The present petition has been filed on behalf of the petitioner under Article 227 of the Constitution of India, 1950, assailing the order dated 09th March, 2026, passed by the learned Trial Court in CS DJ No. 10/2022, whereby an application under Section 39 of the Bharatiya Sakshya Adhiniyam, 2023 (Section 45 of the Indian Evidence Act, 1872) read with Section 151 of CPC, seeking examination of a handwriting expert, has been dismissed.
3. Heard. Record perused.
4. Learned Counsel for the petitioner has argued that the Trial Court has passed the impugned order on the basis of surmises and conjectures, which is



against the facts and law. The application has been moved at the stage of petitioner's evidence. The examination of a handwriting expert is essential for proper adjudication of the case and the denial of such an opportunity would cause prejudice to the case of the petitioner.

5. The relevant portion of the impugned order dated 09th March, 2026 reads as follows:

“It is seen that the right of the defendant to lead evidence was closed vide order dated 26.04.2025 and afterwards the defendant was granted opportunity to lead DE vide order dated 04.07.2025. The defendant examined herself as DW1 on 04.08.2025. The defendant further examined DW2 on 14.10.2025. Thereafter again adjournment was sought on 17.11.2025. It was at this belated stage that the defendant moved the present application on 05.01.2026.

It is seen that even in the replication, which was filed on 25.03.2022 the plaintiffs had categorically stated that their signatures on the Family Settlement dated 15.02.2014 are forged and fabricated. PW1 was examined on 06.07.2024 and PW-2 was examined on 26.09.2024 and both of them again disputed their signatures on the said Family Settlement.

However, no application for getting the said Family Settlement examined by a hand writing expert was moved by the defendant at the earliest available opportunity. It is seen that the names of the said hand writing experts are not there in the list of witnesses filed on behalf of the defendant. The present application has thus been belatedly moved by the defendant at the fag-end of the trial and no explanation has been tendered by the defendant as to why the present application was not moved at the earliest available opportunity. In case the present application is allowed that would further delay the trial.

Most importantly, the document Ex. DW1/1 (Ex. PW1/DX) is stated to be a written deed of family settlement, however the same is neither stamped nor registered.



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Considering these facts and circumstances, I am not inclined to allow this application for examination of the said family settlement deed by a handwriting expert at this belated stage. The application under Section 39 of BSA, 2023 (section 45 of the Indian Evidence Act) is accordingly dismissed.”

6. It is evident from the record that the petitioner had sufficient opportunities to move the application at an earlier stage when the matter was repeatedly listed for evidence of the petitioner. The application has, however, been filed after undue delay. Accordingly, this Court does not find any infirmity in the impugned order which is a well-reasoned order. The petition is dismissed as being devoid of any merit. Pending application(s), if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

APRIL 15, 2026/MR/TP