

21.01.2026

Present: Sh. Krishan Kumar, Ld. counsel for plaintiff.
Sh. Prahlad Singh, Ld. counsel for defendants.

1. Further arguments on plaintiff's application u/s 45 of BSA heard.
2. Vide the said application, plaintiff wants that a Will in dispute Ex.DW1/B to be sent for FSL examination for comparison of thumb impression of late Balwanti on the said Will with thumb impression on another document Ex.PW1/16.
3. The said application is premised on the ground that D-1/Rajbir himself admitted during his cross-examination while deposing as DW-4 on 06.10.2025 that late Balwanti Devi held 3 bighas of land in Village Ramala, Baghpat, Uttar Pradesh. As per counsel for plaintiff, the said land came in the name of Balwanti Devi through a registered *Mahayada Patra* dated 31.03.1995 already exhibited as Ex.PW1/16 (OSR). Counsel argued that once D-1/Rajbir himself admits that Balwanti Devi holds 3 bighas of land in UP and a bare perusal of the document Ex.PW1/16 shows that the said document pertains to the said land, it would mean that the same bears the admitted thumb impression of Balwanti Devi.
4. Now, the plaintiff is disputing a purported Will of Balwanti Devi Ex.DW1/B and it is his specific case that the said Will is forged and does not bear thumb impression of Balwanti Devi. Thus, it was argued that if the admitted thumb impression of Balwanti Devi is allowed to be compared with the disputed thumb impression on Will

Ex.DW1/B, it would help, as per counsel for plaintiff, in allowing fair adjudication of the case.

5. On the other hand, counsel for defendants objected to the said application on the ground of delay. It was argued that after the matter was listed for final arguments, plaintiff only to delay the matter and to fill in the lacunae in the evidence have moved the present application which cannot be permitted in law. Thus, defendants have prayed for dismissal of plaintiff's aforesaid application.
6. A bare perusal of the cross-examination of Rajbir/D-1/DW-4 shows that said witness admitted that his mother Balwanti Devi holds 3 bighas of land in Baghpat, UP. Even though document pertaining to the said land Ex.PW1/16 was shown to the said witness, he claimed in his cross-examination that he can neither admit nor deny the fact as to whether Ex.PW1/16 pertains to the same land or not. He even claimed that he cannot say as to whether the said document bears the thumb impression of his mother or not.
7. In this regard, reference can be had to para 16 to 18 of the cross-examination of Rajbir/DW-4 dated 06.10.2025. Now, once DW-4/Rajbir himself admits that 3 bighas of land belongs to late Balwanti Devi in Baghpat, UP, it would mean that there exists a document which has admitted thumb impression of Balwanti Devi and if the said admitted thumb impressions are allowed to be compared with disputed thumb impressions on Ex.DW1/B, it would allow fair and just adjudication of the suit as that would make is crystal clear as to whether the disputed document was or was not executed by Balwanti Devi.

8. Trial is essentially a quest for truth. If the above application of the plaintiff is allowed, that would be in the direction of finding out the truth in the matter and therefore, only on the technical ground of delay, the application cannot be thrown out of the window. It is the consistent stand of the plaintiff that the disputed Will Ex.DW1/B was never executed by Balwanti Devi and as per counsel for plaintiff only after DW-4/Rajbir/D-1 refused to identify the admitted signatures of his mother on Ex.PW1/16 did the occasion arise for plaintiff to move the present application for expert opinion.
9. Even otherwise, if the said application is allowed, it would only mean that an expert shall give his opinion on a pre-existing document and the said opinion can always be rebutted by the other side by bringing their own independent expert opinion. This would balance equity on both sides.
10. So considered, in my humble opinion, the present application is liable to be allowed.
11. Counsel for plaintiff has proposed the name of one **Mr. Deepak Jain having his office at E-20, Near Tehsil Building, Tis Hazari Courts, Delhi having mobile. no. 9811076635 as the expert through whom he wants comparison of the aforesaid document.** This is not objected to by counsel for defendants.
12. Accordingly, the present application is allowed with plaintiff being allowed to have the original of Ex.PW1/16 (in possession of plaintiff) being compared with the original of the disputed Will Ex.DW1/B (available on record) qua the thumb impressions of Balwanti Devi by the above named expert. **To allow the comparison**

to happen, date of 31.01.2026 at 2:00 PM is fixed when the Ahlmad shall allow inspection of the file qua the aforesaid Will to the above named expert in the presence of both the parties/counsels. On the same day, plaintiff shall produce the original of Ex.PW1/16.

13.The expenses of the expert shall be entirely borne by the plaintiff.
The expert shall file his opinion within 15 days thereafter with copies to both the parties.

14.Thereafter, if so advised, defendants shall be at liberty to produce their own expert after due permission of the court.

15.With the said directions, the application is disposed off.

16.At this stage, counsel for plaintiff presses his another application u/s 151 CPC whereby he wants summoning of relevant record qua registration of Ex.PW1/16 from Sub-Registrar Office, Baghpat. Counsel submits that the registration of the said document shall prove that Balwanti Devi was holding 3 bighas of land in UP. Counsel for defendants does not oppose this application and thus, plaintiff is allowed to summon the said record on filing of PF. Let dasti summons be also given.

17.List for filing of report of expert in terms of this order and production of record as aforesaid on 04.04.2026.

AASHISH GUPTA
DJ-01/NE/KKD/DELHI
21.01.2026