

**IN THE COURT OF SH. KISHOR KUMAR, DISTRICT
JUDGE-04, NORTH DISTRICT : ROHINI COURTS : DELHI**

**CS No. 59418/16
CNR No. DLNT01-003985-2015**

In the matter of :-

Smt. Koshlya Devi & Anr.

..... Plaintiffs

Versus

Sh. Kanwar Singh & Ors.

.....Defendants

ORDER/11.02.2025

1. Vide this order I shall dispose of an application under Order VII Rule 14(2) read with Section 151 CPC filed on behalf of the plaintiffs for taking documents on record.

2. It is submitted on behalf of the plaintiffs that documents related to the suit properties are in the possession of defendant no.1 and he denied to share the same with the plaintiffs. It is further submitted that recently plaintiff found one document of one page and as per this document, property no. ii), iii) and iv) are shown in the name of defendant no.1. These properties/plot has been given to the Bhumidar after acquiring their land by

government. The said document is important to decide this case as plaintiffs have only this document in hand to prove this case. It is further submitted by Ld. Counsel for plaintiffs that site plan of the properties was not filed by his office staff at the time of filing this case. It is stated that the aforesaid document and site plan of the properties were not filed at the time of filing of this case as the same were not available and due to the mistake of office clerk of counsel for the plaintiffs.

3. In reply to the present application, it is stated on behalf of the defendant no.1 that the plaintiff has not disclosed any property in his plaint for which the plaintiff wants to place these documents before the court. It is further submitted that the registered Karwahi Chakbandi which the plaintiff wants to place on record in respect of the property falling in Kh. No.70/125, 70/126 & 69/180, but the plaintiff has not mentioned these khasra numbers in his plaint at the time of filing the present suit. It is further submitted that the properties falling in above said khasra numbers are already in dispute and the civil case for cancellation of chakbandi is pending in Hon'ble Supreme Court of India. It is further stated that the site plans which the plaintiffs want to place on record, do not disclose the dimension of the plot and are newly drafted. It is submitted that application deserves to be

dismissed as the plaintiffs were very much aware of these documents at the time of filing of the suit.

4. I have heard Ld. Counsel for the parties and have carefully gone through the record.

5. The relevant provision for the purpose of present application is reproduced as under:

Order VII Rule 14 CPC

Production of document on which plaintiff sues or relies.—

(1) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(2) Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or

entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to document produced for the cross-examination of the plaintiffs witnesses, or handed over to a witness merely to refresh his memory.

6. Plaintiffs have filed the present suit for partition with consequential relief of permanent injunction stating inter alia that late Sh. Dhani Ram was owner and bhumidar of suit properties who died intestate, leaving behind plaintiffs and defendant being the legal heirs of their father and both the parties are entitled to 1/3rd share each in the suit properties for which defendant avoided the request of plaintiffs to partition the same.

7. The present case is at the stage of plaintiffs' evidence. Affidavit in evidence of witness/Smt. Sarita has already been filed on record, however, same is yet to be tendered. By way of present application, it is contended by the plaintiffs that the document in question is pertaining to the suit properties and is the only document now available with the plaintiffs to prove their case. In the written statement, filed on behalf of the defendant, they do not deny the relationship between the parties. In the facts and circumstances of present case, it can be safely concluded that

the document in question is the key document around which the whole case of plaintiffs exists. In other words, the document is must and necessary for the just decision of the case. Further, present suit is at the stag of plaintiffs' evidence and defendants would get sufficient opportunity to cross examine the plaintiff witnesses on all material aspects including the document in question. Moreover, the defendants would also get sufficient opportunity to lead evidence in support of their stand. The delay, if any, can be compensated in terms of cost.

8. In view of my above discussion, the application under Order VII Rule 14(2) CPC, moved on behalf of the plaintiffs, stands allowed subject to cost of Rs.1,500/- to be paid to the defendants.

9. Application stands disposed of accordingly.

**Announced in open
Court on 11.02.2025**

**(Kishor Kumar)
DJ-04, North, Rohini Courts,
Delhi/11.02.2025**