

22 CS 2513/16

DEEPAK VERMA AND ORS. Vs. NARESH KHURANA AND
ORS.

And

36 MISC DJ 349/26

DEEPAK VERMA Vs. NARESH KHURANA

05.06.2026

1st call at 12:05pm

Present: Sh. Rakesh Chander Aggarwal and Sh. Amar Nath,
Ld. Counsels for applicants/plaintiffs along with
plaintiffs/applicants.
Sh. Trilok Chand, Ld. counsel for non-
applicants No.1 and 2/defendant No.1 and 2.
None for non-applicant/D-3.

At request of Ld. counsel for applicants/plaintiffs,
matter is pass over for 12:45pm.

(Deepanker Mohan)
District Judge-04
Shahdara District/KKD Courts/Delhi
05.06.2026

2nd call at 12:44pm

Present: Sh. Rakesh Chander Aggarwal and Sh. Amar Nath,
Ld. Counsels for applicants/plaintiffs along with
plaintiffs/applicants.
Sh. Trilok Chand, Ld. counsel for non-
applicants No.1 and 2/defendant No.1 and 2.
None for non-applicant/D-3.

(2)

Ld. counsel for plaintiff, on instructions submits that the averments of the review petition and application under Order XVIII Rule 17 CPC are same. He further submitted that the grounds raised in both the application are same. He further submitted that by way of both the applications, plaintiff wants to recall the order dated 17.03.2026. He further submits that review petition (MISC DJ No.349/2026) be considered for recalling of the order dated 17.03.2026. He further on instructions submits that the application under Order XVIII Rule 17 CPC be disposed of as withdrawn.

Heard.

In view of the submissions, application under Order XVIII Rule 17 CPC is hereby **disposed of as withdrawn and accordingly disposed of.**

Arguments heard on the application for review.

File perused.

Ld. counsel for plaintiff submitted that on 17.03.2026, he was busy in a time bound matter before the Hon'ble High Court of Delhi i.e. case titled as 'R.K. Popli (Senior Citizen) Vs. MCD'- WP(C) No.9764/2025 and due to the said reason, he could not appear before this Court when the matter was called. He further submitted that his submissions were not recorded by this Court on 17.03.2026. He further submitted that PW-1 Sh. Deepak Verma had taken his wife Smt. Bharti to the hospital and due to the said reason, he could not appear before this Court for recording of his evidence, when the matter was called. During the course of arguments, he further

(3)

conceded that PW-1 Sh. Deepak Verma has made wrong submissions to the Court and requested for a pass over for 12:15pm at 11:40am. He further submitted that one last opportunity be granted to PW-1 Sh. Deepak Verma to conclude his evidence.

On the other side, Ld. counsel for defendant No.1 and 2 argued that on 17.03.2026, PW-1 Sh. Deepak Verma had appeared through VC and requested a pass over for 12:15pm. He further argued that when the matter was again called at 12:38pm, PW-1 Sh. Deepak Verma had not appeared for his cross examination. He further argued that PW-1 Sh. Deepak Verma had not told this Court at the first call that he has to take his wife to hospital. He further argued that this Court has granted several opportunities to PW-1 to conclude his evidence but on every occasion, date has been taken on behalf of plaintiffs on one pretext or the other. He further argued that plaintiffs do not deserve liberty of this Court, therefore, the application for review/recall be dismissed with heavy exemplary cost.

Perusal of the record shows that the present matter pertains to the year 2013. Issues were framed on 18.08.2018 and plaintiffs were asked to lead evidence. Thereafter, on 28.11.2018, PW-1 Sh. Deepak Verma has tendered his evidence affidavit and he was partly cross examined on the said day.

Thereafter on 21.02.2019, PW-1 Sh. Deepak Verma had appeared, however, at his request, matter was adjourned. Thereafter on 22.08.2019, PW-1 was further partly cross examined and was asked to produced original rent agreement

(4)

dated 06.12.2008. Thereafter, 02.11.2019 and 27.01.2020, PW-1 had not produced the original rent agreement dated 06.12.2008 and the matter was adjourned. Thereafter, due to Covid-19 Pandemic, evidence of PW-1 could not be recorded till 31.05.2022.

Thereafter, vide order dated 11.07.2022, Ld. Predecessor of this Court has specifically recorded in her order that the matter was pending for cross examination of PW-1 and no more adjournment shall be allowed to plaintiff.

Thereafter, on 19.12.2022, an application had been moved on behalf of plaintiffs for recording the evidence of PW-1 through VC. On the same day, adjournment had been sought on behalf of plaintiffs on the ground that uncle of PW-1 had expired. Thereafter, an application under Order I Rule 10 r/w Section 151 CPC had been preferred by plaintiff on 16.01.2024. However, the said application was dismissed by detailed order on 24.03.2025 and the matter was again listed for cross examination of PW-1.

On 14.05.2025 and 16.05.2025, the evidence of PW-1 could not be recorded because cross examination was going in CS No.257/2024 titled as 'Naresh Kumar Khurana Vs. Geeta Rani'.

Thereafter, on 02.07.2025, at the request of Ld. counsel for plaintiffs, the NDOH i.e. 18.07.2025 was cancelled. Thereafter, on 19.08.2025, PW-1 had not appeared for his cross examination and sought adjournment on the ground that he is taking care of his mother namely Smt. Geeta Rani.

(5)

Thereafter, on 19.09.2025, adjournment was gain sought on behalf of plaintiffs on the ground that father of main counsel had expired. Thereafter, on 20.09.2025, PW-1 again has not appeared and an adjournment was sought on the ground that he has gone to attend last rites ceremonies of his one of the family member at Faridabad.

Thereafter on 24.09.2025, the cross examination of PW-1 could not be recorded because PW-1 along with his father has left the Court by taking his mother namely Geeta Rani at their home. Thereafter, on 08.10.2025, an application under Section 151 CPC for consolidation of suit No.257/2024 has been filed by plaintiffs along with application under Order XII Rule 6 r/w Section 141 and 151 CPC. On the same day, Ld. counsel for plaintiffs, on instructions has categorically submitted that PW-1 and PW Sudheer Verma would not step into the witness box unless the application for consolidation is decided.

On the same day i.e. 08.10.2025, the application under Section 141 and 151 CPC for consolidation was dismissed by this Court by a detailed order. Admittedly, the said order dated 08.10.2025 has not been assailed by the plaintiffs before the Hon'ble High Court of Delhi till date.

Thereafter on 03.11.2025, PW-1 had appeared for his cross examination, however, again adjournment was sought on behalf of plaintiffs on the ground that main counsel is suffering from throat infection and high fever.

Therafter, on 26.11.2025, an application for adjournment has been filed on behalf of plaintiffs. In the interest

(6)

of justice, application was allowed and plaintiffs were granted last and final opportunity to lead PE.

Therafter, on 23.12.2025 at 11:11am, Ld. Counsel for plaintiffs appeared and the matter was pass over for 12:15pm. Therafter, on the same day, the matter was twice called at 12:29pm and 1:37pm but as PW-1 had not appeared the matter was adjourned.

Therafter, on 04.02.2026, PW-1 had not appeared for his cross examination and the matter was again adjourned.

Thereafter, on 17.03.2026, PW-1 had appeared at 11:40am and requested for a pass over. At this point of time, he has not apprised this Court about the illness of his wife and/or that he could not appear at 12:15pm for recording of his evidence because he has to take his wife to the hospital. He has also not apprised this Court that his Counsel is busy in another matter before the Hon'ble High Court of Delhi.

Therafter at 12:38pm, when PW-1 had not appeared for his cross examination then this Court after considering the record and conduct of the plaintiffs including PW-1 has closed the evidence of PW-1.

Ld. Counsel for plaintiffs has already conceded that PW-1 has made wrong submissions to this Court on 17.03.2026. Due to the wrong submissions, the precious time of this Court has been wasted.

Record of the present suit i.e. CS No.2513/2016 clearly reflects that on 17.03.2026 main counsel for plaintiffs namely Sh. Rakesh Chander Aggarwal had not appeared. After

(7)

pronouncement of the order in the present suit, Sh. Rakesh Chander Aggarwal appeared in CS No.238/2020 at 12:46pm and requested for pass over till 2:00pm in the said suit. This Court in the said suit has also closed the evidence of DW-1 Sh. Deepak Verma on the same day by an order.

The medical records of PW-1's wife filed along with the application does not specifically mention that she has attended OPD on 17.03.2026. Medical record reflects that a tablet has been prescribed by a doctor on the old prescriptions on 17.03.2026. Plaintiffs have not filed any documentary proof or receipt of payment made to doctor/hospital to show that on 17.03.2026 wife of PW-1 has visited OPD for her medical treatment.

Considering the record, conduct of PW-1 and above discussions, no ground to allow the present application is made out, however, in the interest of justice and considering that every case should be decided on merits, therefore, order dated 17.03.2026 is hereby recalled subject to cost of Rs.50,000/- which shall be paid by plaintiffs to defendant NO.1 and 2 on NDOH.

It is made clear that only after making of payment of cost of Rs.50,000/-, PW-1 shall be allowed to step into the witness box for his cross examination. It is also made clear that only one opportunity shall be granted to PW-1 to conclude his testimony/evidence on NDOH positively. No further adjournment shall be entertained on behalf of plaintiffs in future.

Application is accordingly disposed of.

(8)

File (MISC DJ No.349/2026) be attached with the main suit file and consigned to record room after due compliance.

Put up for payment of cost and cross examination of PW-1 on 16.07.2026.

Date is given as per the convenience of Ld. counsels.

(Deepanker Mohan)
District Judge-04
Shahdara District/KKD Courts/Delhi
05.06.2026