

2 CS DJ ADJ 489/18

OM PRAKASH GUPTA Vs. RADHEY SHYAM AND ORS

23.05.2026

Present: Sh. Satyakam Saini, Ld. Counsel for Plaintiffs.
Sh. Yogesh Vidyakar, Ld. Counsel for Defendants no.1 and 9.
Sh. Amit Yadav, Ld. Counsel for Defendant no.10.
Plaintiff in person.
Defendants no.1 and 9 in person.

Application under Order 7 Rule 11 of CPC.

After some arguments, Ld. Counsel for defendants no.1 and 9 wishes to withdraw the application under Order 7 Rule 11 of CPC.

It is ordered accordingly.

Application is disposed off.

Application under Order 7 Rule 14 of CPC.

Arguments heard on the application under Order 7 Rule 14 of CPC.

Ld. Counsel for defendants no.1 and 9 has, during the course of the arguments, tried to portray that some of the documents, pertaining to the year 1988, had been locked in the trunk of the mother. However, on being asked, Ld. Counsel is unable to point out, where the said fact is mentioned in the said application. The application is bereft of any particulars as to when a particular document came in possession of the defendant and how? There is a broad and general claim that on receiving certified copy of the record of the criminal case, pending against the defendant no.1, documents have been discovered and are being placed on record.

It is pertinent to note that the case pertains to the year 2011. The issues in the present matter were, ultimately, framed on 27.07.2023,

as several miscellaneous applications, including that for amendment kept the proceedings halted till then.

The plaintiff's evidence was concluded after a Local Commissioner was appointed in the present matter. On 19.04.2025, the matter was listed for DE for 17.05.2025.

Thereafter, on 12.05.2025 i.e., the very next month, after conclusion of PE, the present application came to be filed by the said defendants. Some of these documents are claimed to be signed by the plaintiff, but they were never put to the plaintiff during cross examination and these documents pertain to the 20th Century and were in existence much before the present case was instituted.

As far as documents forming part of the chargesheet are concerned, it is not clear that when the copy of chargesheet was supplied to defendant no.1 and there is no claim in the application that it was so supplied on a particular date. Even otherwise, the statements given by the defendant to the IO or by the witnesses to the Will given to the IO are not relevant, at this stage. The defendant cannot, now, place documents which are not in consonance with his defence in the suit. It is understandable that the witnesses to the Will may turn hostile and in anticipation the statement given to the IO or the letter sent to IO by witness are being placed on record and may be used to confront the witnesses in such scenario.

Therefore, only the said two statement/letter of the witnesses to the Will can be permitted to be taken on record, subject to the proof of execution of Will in accordance with provisions of Indian Succession Act and Indian Evidence Act.

The remaining documents cannot be taken on record, as the application for them is highly belated and could not explain the delay in filing of the said application. The court cannot permit the trial to re-open after the conclusion of evidence of the plaintiff in a case pertaining to the

year 2011, when all these documents would have been in the knowledge of the defendant even before the evidence of the plaintiff commenced. The application is allowed in part, treating it as an application under Order 8 Rule 1A of CPC, although, it is filed under Order 7 Rule 14 of CPC.

In these circumstances, since the application is partly allowed, there are no orders as to costs.

Application is disposed off.

Sh. Radhey Shyam has been examined-in-chief as DW-1 and partly cross examined. His remaining cross examination is deferred.

List for further cross examination of DW-1 on **30.05.2026**.

(HARJYOT SINGH BHALLA)
DJ-03, SOUTH-WEST, DWARKA
NEW DELHI/23.05.2026