

25.10.2025

Present: None for plaintiff.
None for defendant No. 1.
Defendant No. 2 already proceeded ex parte vide order dated 08.04.2025.
Sh. Ajay Singh Malik, Ld. Counsel for defendant No. 2.

1. The present order disposes of an application moved on behalf of the plaintiff under Rule 6.1 and Rule 8.15 of the High Court of Delhi (Video Conferencing for Courts) Rules, 2021 (hereinafter “Delhi HC VC Rules, 2021”), read with Section 151 CPC, seeking permission to record the evidence of PW-1 (the plaintiff himself) via video conferencing from his place of residence at 5060, Everest Lane, Plymouth, Minnesota, 55446, USA.

2. Ld. counsel for plaintiff submitted that, plaintiff has been a permanent resident of the USA since 1997. It is also submitted that, there is no Indian Consulate in the entire State of Minnesota. The nearest Consulate General of India is in Chicago, Illinois, which is approximately 682 kms from the plaintiff’s residence and travelling to Chicago would involve air travel, local transportation, and overnight accommodation, causing undue expense and delay. Hence, it is requested that, plaintiff may be permitted to depose from the place he is located. Reliance is placed on Rule 8.15 of the Delhi HC VC Rules, 2021¹ and the judgment of the Hon’ble Punjab & Haryana High Court in *Kulvir Ram v. State of Punjab* (CRM No. 40097 of 2024), wherein evidence was permitted to be recorded from the witness’s own residence.

¹ Where a Required Person is not capable of reaching the Court Point or the Remote Point due to **sickness or physical infirmity**, or **presence of the required person cannot be secured without undue delay or expense**, the Court may authorize the conduct of video conferencing from the place at which such person is located. In such circumstances, the Court may direct the use of **portable video conferencing systems**. Authority in this behalf may be given to the concerned **Coordinator and/or any person deemed fit by the Court**

3. Ld. counsel for plaintiff further submitted, that due to time difference between India and Chicago (10 hours and 30 minutes behind IST) the hearing before this Court may be scheduled at 7.00 AM IST which is 8.30 PM in Chicago. He further tendered undertaking to comply with all technical, procedural, and evidentiary safeguards as directed by this Court.

4. *Per Contra*, Ld. Counsel for defendant submitted that, though he has no objection for recording of evidence through VC but, since plaintiff is seeking recording of evidence through his residence located at Minnesota, USA, he has strong apprehension of tutoring. It is submitted that Delhi High Court VC rules does not permit the request sought on behalf of plaintiff. Moreover, without remote point or coordinator there is high chances of witness tutoring which may breach the principle of fair trial. Hence, it is submitted that present application may be dismissed.

5. Submissions heard. Record perused.

ANALYSIS & FINDINGS

6. Vide Notification No. 36/Rules/DHC dated 04.07.2025, the Hon'ble High Court of Delhi notified the Electronic Evidence and Video Conferencing Rules, 2025 (hereinafter "EEVCR, 2025"). Rule 27(2)² thereof provides that the Delhi HC VC Rules, 2021 continue to apply to cases/proceedings commenced prior to the coming into force of EEVCR, 2025. Accordingly, the present application is adjudicated in light of the aforesaid Rules.

²(2) Notwithstanding the repeal, provisions of High Court of Delhi Rules for Video Conferencing for Courts, 2021 shall apply to:- a) Actions and proceedings commenced before these rules came into force. b) All notifications/orders published/issued under the High Court of Delhi Rules for Video Conferencing for Courts, 2021, to the extent they are not repugnant to these rules, shall be deemed to have been made or issued under these rules.

Applicability of Rule 8.15, Delhi HC VC Rules, 2021 (analogous to Rule 13(8)³, EEVCR, 2025):

7. Although VC rules does not specifically include private homes but, Rule 8.15 empowers the Court to permit recording from “the place at which such person is located” – a formulation broader than a “remote point”. A remote point⁴ includes a designated place⁵.

8. Rule 9(1) of EEVCR, 2025 further provides that,

“There shall be a Coordinator both at the Court Point and at the designated place from where any required person is to be examined or heard or is directed to remain present. However, coordinator may be required at the remote point only when a witness or a person accused of an offence is to be examined”

(emphasis is mine)

9. In present matter, the plaintiff has demonstrated long distance, substantial cost and time consumption. During the course of argument, Ld. counsel for plaintiff relied upon snapshots of google map, emails, room tariff etc.

10. Thus, in considered opinion of this court second limb of Rule 8.15 is clearly attracted as securing witness presence at remote point (consulate) would cause undue delay and expenses. Thus, ‘place of residence’ subject to compliance of all statutory provisions can be treated as "remote point" as, today technology

³Where a required person is not capable of reaching the Court Point or the designed place due to sickness or physical infirmity, or whose presence cannot be secured without undue delay or expense, the Court may authorize conduct of video conferencing from the place at which such person is located. In such circumstances the court may direct the use of portable video conferencing systems and ensure presence as it may deem fit.

⁴ "Remote Point" means a place where any person is required to be present or appear through a live link and includes designated place from where submissions may be made before the Court but does not include Advocate's remote point,

⁵"Designated Place" means any one or more places specified where the facilities are made available for use of electronic communication or use of audio-video electronic means with courts points and shall include Vulnerable Witness Deposition Centre from where evidence of such witnesses may be recorded;

provides secure, verifiable, real time transmission with end to end encryption and object of VC rules is to access to justice.

Record of Tutoring- Mitigation Protocol:

11. Defendant's apprehension qua tutoring is genuine but not insurmountable. In considered opinion of this Court, appropriate measurement can be taken to elimination any possibility of unfair advantage. Further, nature of suit is recovery, wherein initially *Ex-parte* Decree was passed but, same was set aside by this Court.

12. In the aforesaid circumstances, the application stands allowed subject to strict compliance with the following directions:

1. Evidence shall be recorded from the plaintiff's 'place of residence' at Minnesota, USA which shall be treated as the 'Remote Point';
2. At commencement, the plaintiff shall verify his Government-issued ID. Recording shall be with a 360° camera providing full room view, confirming no other person is present and no electronic device except the VC device is in the room;
3. PW-1 shall face the camera; side profile, virtual backgrounds, screen-sharing, external collaboration, earpieces or notes are strictly prohibited;
4. Sh. Manmohan Sharma, Former District Judge, Delhi (Mob: 9971993803; 26/147, West Patel Nagar, New Delhi – 110008) is appointed Local Commissioner for recording of plaintiff's evidence at plaintiff's cost;

5. Examination shall be completed in one sitting; in exceptional circumstances, the Local Commissioner may grant one additional sitting for reasons recorded in writing;
6. Recording shall take place in the designated Video Conferencing Room within any District Court, Delhi or Hon'ble High Court precincts in terms of the Delhi HC VC Rules, 2021 r/w EEVCR, 2025;
7. Local Commissioner's fee is fixed at ₹1,00,000/- (for 3 hours, one day); additional sitting (if any) at ₹50,000/-, both borne exclusively by the plaintiff;
8. The Local Commissioner may fix a mutually convenient date/time, considering the time difference;
9. If the Court file is required, the Ahlmad shall produce it; diet money for staff shall be borne by the plaintiff;
10. Adjournment costs, if any, shall be borne by the defaulting party, to be decided by the Local Commissioner;
11. Parties shall fully cooperate with the Local Commissioner;
12. The Local Commissioner shall ensure the Court file remains intact; no document shall be removed;
13. The VC Room in-charge shall preserve audio-visual recording of the examination as per Rule 8.9 of the Rules (assistance of Computer Branch may be taken);
14. The Local Commissioner may record the demeanour of the witness during cross-examination per Rule 8.6;
15. Examination shall be conducted via Cisco Webex; the URL/link shall be shared 30 minutes prior to commencement.

13. Application stands disposed off. The Local Commissioner shall file his report within 7 days of completion of plaintiff's evidence.

14. While going through the record, one original DD bearing No. 013721 dated 14.05.2024 found lying in the Judicial File. Perusal of record reveals that vide order dated 03.06.2024 this court directed Ahlmad to convert the DD in FDR form but same is seems to be not converted yet.

15. Let needful be done within 2 weeks. Revalidation of DD, if required, can be obtained from respective bank as per due procedure of law.

16. A review application under Order XLVII Rule 1 CPC r/w Sections 114 & 151 CPC filed by defendant No. 2 against order dated 11.07.2025 is also pending. List for arguments/further proceedings on 07.11.2025.

17. Copy of this order be given *dasti* to Ld. Counsel for parties, as well as to Ld. LC by Ahlmad.

(SHILPI M JAIN)
DJ-05 (SW)/Dwarka Courts
New Delhi: 25.10.2025 (GM)