

PARVINDER DUTTA Vs. RAVINDER DUTTA AND ORS.

25.05.2026

All the proceeding conducted through VC.

Present Plaintiff with Ld. Counsel Sh. K. Sunil.

Sh. Chiraayu Trehan, Ld. Counsel for defendant no. 1, 4 and

5

Sh. Sushil Tripathi, Ld. Counsel for defendant no.2 and 3 through VC.

Ld. Counsel for the defendant no. 1, 4 and 5 has moved and application under Order XVIII Rule 3 r/w Section 151 CPC seeking reopening of defence evidence and another application under Section 151 CPC seeking expunging/de-exhibiting of the evidence, report and testimony of the handwriting expert from the judicial record. Copy already supplied to the plaintiff. Copy supplied to the Ld. Counsel for defendant no. 2 and 3 today.

Ld. Counsel for the plaintiff has filed reply to the above applications. Copy supplied.

Arguments on the applications moved on behalf defendant no. 1, 4 and 5 heard.

Ld. Counsel for the plaintiff has relied upon the following case law in support of his arguments : ***My Palace Mutually Aided Co-Operative Society v. B.Mahesh and ors. 2022 LiveLaw (SC) 698.***

By way of the composite order, the Court shall decide:

(i) an application under Section 151 CPC moved on behalf of Defendant

No.1 seeking expunging/de-exhibiting of the report, affidavit evidence and testimony of the handwriting expert, namely Sh. Deepak Jain; and (ii) an application under Order XVIII Rule 3 read with Section 151 CPC seeking reopening of defence evidence and permission to lead rebuttal evidence.

Briefly stated, defendant no.1 has sought expunging of the report and testimony of the handwriting expert on the ground that the expert admittedly conducted comparison of disputed and admitted signatures only upon photocopies/scanned images and not on original documents and, therefore, the report lacks scientific reliability and evidentiary sanctity. It has further been contended that since no original disputed documents were ever brought on record, the expert opinion becomes legally unsustainable and ought to be excluded from consideration.

Simultaneously, defendant no.1 has sought reopening of defence evidence and permission to examine additional witnesses including Sh. Manjeet Singh and other witnesses connected with the alleged transaction, contending that such evidence is necessary for proper adjudication of the controversy.

Per contra, the plaintiff has opposed both applications and submitted that the present applications are misconceived, belated and intended merely to fill lacunae in the defence case. It is submitted that Defendant No.1 had already been granted repeated opportunities to lead defence evidence and summon witnesses, including imposition of costs; however, despite sufficient opportunity, the witnesses were not produced. It has further been pointed out that on 01.08.2025, defendant nos.1, 4 and

5 categorically stated before the Court that they intended to examine only DW-1/Defendant No.1, after which the matter proceeded accordingly.

1. Application under Section 151 CPC for expunging/de-exhibiting handwriting expert evidence.

It is not in dispute that the handwriting expert, Sh. Deepak Jain, stood examined and cross-examined. It further appears from the material placed on record and submissions advanced that the expert opinion was rendered on the basis of photocopies/scanned images and not upon original disputed documents. Admittedly, the original disputed documents were never produced before the expert or before the Court.

However, the question that arises is whether such circumstance warrants expunging or de-exhibiting of the report and testimony altogether. It is a settled proposition of law that mere exhibition of a document does not dispense with proof thereof, nor does it automatically confer evidentiary credibility upon the same. Equally settled is the principle that objections pertaining to the mode of proof or reliability of evidence ordinarily go to the weight and probative value of evidence, and not necessarily to its admissibility once evidence has been tendered and subjected to cross-examination.

Expert opinion is, by its very nature, advisory and not conclusive. Under the law of evidence, opinion of an expert is only a relevant fact and does not bind the Court. The Court remains duty bound to independently assess the reliability, credibility and foundational basis of such opinion in light of the surrounding evidence.

In the present case, the objection raised by defendant no.1

essentially pertains to the methodology adopted by the handwriting expert, namely, comparison on photocopies instead of original writings. Undoubtedly, comparison of signatures based merely upon photocopies, without examination of original ink strokes, pen pressure, line quality, natural writing movement and microscopic characteristics, may substantially dilute the reliability of the opinion and may render such opinion weak or unsafe for sole reliance. However, such infirmity by itself does not automatically render the evidence non est or liable to be expunged from the judicial record after the witness has already been examined and cross-examined.

The judicial exercise at this stage is not one of final appreciation of evidentiary worth. The issue whether the expert opinion inspires confidence, and the extent to which reliance, if any, can be placed upon it, is a matter to be considered at the stage of final adjudication after holistic appreciation of evidence.

The Court cannot lose sight of the fact that the expert has already entered the witness box and has been extensively cross-examined by defendant no.1. The deficiencies, contradictions or infirmities in his methodology are matters available to the defendants for impeachment of credibility during final arguments. Merely because the report may ultimately be found weak, insufficient or unworthy of reliance does not justify deletion of the evidence from the record itself.

The inherent powers under Section 151 CPC are to be exercised sparingly and only to secure ends of justice or prevent abuse of process. Such powers cannot ordinarily be invoked to obliterate evidence already

recorded unless the same is wholly without jurisdiction or legally impermissible to remain on record.

Accordingly, the Court is of the opinion that the prayer seeking expunging/de-exhibiting of the report, affidavit evidence and testimony of the handwriting expert cannot be granted. Nevertheless, it is clarified that since admittedly the opinion is based upon photocopies and not originals, the evidentiary value, reliability and weight of such opinion shall be independently assessed at the stage of final appreciation of evidence and the Court shall remain uninfluenced by the mere fact of exhibition of such material.

2. Application under Order XVIII Rule 3 r/w Section 151 CPC seeking reopening/rebuttal evidence

Coming to the second application, defendant no.1 seeks reopening of defence evidence and permission to examine further witnesses under the guise of rebuttal evidence.

Order XVIII Rule 3 CPC permits leading of rebuttal evidence in limited circumstances and cannot be employed as a mechanism to reopen evidence for curing deficiencies or filling lacunae in a party's case after conscious closure of evidence.

The record reveals that defendant no.1 had already been granted ample and repeated opportunities to lead defence evidence. Opportunity had also been granted specifically for summoning the proposed witnesses as per list of witnesses including Sh. Manjeet Singh, Smt. Gunjan Juneja, Shri H.K. Babbar and other witnesses, and even costs had been imposed; however, despite such indulgence, the defendants failed to produce them.

The judicial record further reflects that on 01.08.2025, defendant nos.1, 4 and 5 specifically stated that they intended to examine only DW-1/defendant no.1. Such statement amounts to a conscious election regarding the nature and extent of defence evidence proposed to be led.

Having voluntarily restricted their evidence to DW-1 and allowed the matter to proceed accordingly, defendant no.1 cannot now seek reopening of evidence to improve the defence case after cross-examination of the plaintiff's expert witness. The present attempt appears to be an endeavour to overcome deficiencies noticed during trial and to revisit a strategy consciously adopted earlier.

It is trite law that reopening of evidence cannot be granted as a matter of routine, particularly where a party has been negligent despite repeated opportunities or where the relief sought would result in prolonging litigation and reopening settled stages of trial.

The Court is therefore of the view that the present application is not a genuine exercise of rebuttal contemplated under Order XVIII Rule 3 CPC, but rather an attempt to fill lacunae in the defence evidence after availing abundant opportunities.

Consequently, the application under Order XVIII Rule 3 read with Section 151 CPC seeking reopening of defence evidence and permission to lead rebuttal evidence is also **dismissed**.

In view of the foregoing discussions, both applications stand dismissed, subject to clarification that the evidentiary worth and reliability of the handwriting expert opinion shall be independently assessed at the stage of final judgment in accordance with law and on the

basis of entire evidence on record. Nothing stated herein shall tantamount to an expression on the ultimate merits of the case. **Ordered accordingly.**

Put up for final arguments for 02.06.2026.

Date is given at the request and convenience of the Ld. Counsel for plaintiff and defendant no. 1, 4 and 5

SUSHEEL BALA DAGAR
DISTRICT JUDGE-08
WEST/DELHI/25.05.2026