

Civ DJ 1127/14
SHER SINGH Vs. INDER SINGH

06.09.2025

Present: Sh. Pankit Bhardwaj, Ld proxy counsel for plaintiff no.1 (VC).
Sh. S.K. Sagar, Ld counsel for plaintiff no. 2 (VC).
Sh. Rajesh Mahindru, Ld counsel for defendant no. 2
(VC).
None for LR of defendant no. 3.

ORDER

1. Vide this order, this Court shall decide the application u/s 151 CPC moved on behalf of defendant no. 2.

2. Arguments have already been heard. Record perused.

3. In said application, it is submitted on behalf of defendant no. 2 that in the present matter, defendants have filed on record a copy of Chartered Accountant Certificate dated 15.05.1998, issued by M/S Agarwal Srivastava & Company. It is submitted that said Certificate reflects that expenses qua the suit property were exclusively incurred by defendant no.2. It is submitted that during the trial, the original of said Certificate was not traceable and due to the same, defendant no.2 could not summon the concerned Chartered Accountant to prove the said Certificate. It is submitted that defendant no. 2 was searching his old records and in course of the same, about one week ago defendant no. 2 has traced out the original Certificate, which had been mixed

up with some other documents.

4. It is submitted that by way of present application, defendant no. 2 wants to place on record the said Chartered Accountant Certificate and wants to prove the same by summoning the concerned Chartered Accountant. It is submitted that said document is very material document. It is submitted that during arguments, the ld counsel for plaintiff has taken the objection with regard to non-production of original Certificate and non-examination of said Chartered Accountant. It is submitted that no prejudice shall be caused to opposite side, if this application is allowed as sufficient opportunity for cross-examination of said witness shall be available to opposite side. Prayer has been made to permit the defendant no. 2 to place on record the said document and examine the concerned Chartered Accountant to prove the same.

5. This Court is of the considered view that perusal of record shows that earlier defendant no. 2 and LRs of defendant no.3 were being represented by same counsel and at the stage of DE, ld counsel for defendant no.2 and LRs of defendant no. 3 moved one application u/o 8 Rule 1A r/w Section 151 CPC, which was allowed vide order dated 24.08.2024, however, in said application, no prayer was made for giving opportunity to defendants to prove the said Chartered Accountant Certificate. Ld counsel for defendant no.2 has submitted that as original of the same was not available, so during DE even Chartered Accountant was not examined. This Court is of the considered view that if party was not able to trace out the original of the said document, he could apply for giving secondary evidence regarding the same **u/s 60 (c) of Bharatya Sakshya Adhinyam, 2023** (equivalent to Section 65 (c) of Indian

Evidence Act, 1872), however, defendant no. 2 never did the same and now by way of present application, defendant no. 2 wants to fill up the lacuna in his case. It is relevant to mention here that present case is more than 25 years old. In these circumstances, no justified ground is made out to allow the present application and accordingly, same is dismissed.

Perusal of record shows that final arguments have already been advanced in this matter on behalf of plaintiff and part final arguments were advanced on behalf of defendant no. 2 also. In these circumstances, as matter is very old one, last and final opportunity is granted to all the defendants for final arguments for 16.09.2025 at 12:00 PM.

**Announced in the open Court
on this 6th day of September, 2025.**

**(Dharmender Singh)
District Judge-01, (West)
Tis Hazari Courts, Delhi**