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CS SCJ 399/24

Gurjit Singh Talwar Vs. Mehar Kaur Talwar

21.07.2026

Present : None for plaintiff.

Mr. Parmesh Bali, Ld. Counsel for D1 appearing through VC.

D2 in person.

Mr. Deepak Khattar, Ld. Counsel for D2 appearing through VC.

D3 and D4 proceeded ex-parte on 30.01.2025.

Matter is at the stage of order on application filed by D2 to take WS on record.

Put up in post lunch session.

(Shilpi Singh)
ACJ/CCJ/ARC (South),
Saket Courts/21.07.2026

At 3 pm

**ORDER ON APPLICATION U/S 151 CPC FILED BY
DEFENDANT NO.2 FOR PLACING TRUE AND CORRECT FACTS
ON RECORD AND SEEKING PERMISSION TO FILE FRESH WS.**

The above-mentioned application is moved on behalf of defendant no.2 on the ground that in the second week of July 2025, he came to know that a case has been filed against him by his father in a Delhi Court and when the file was inspected, he got to know that he has

been arrayed as defendant no.2. He submits that he was shocked to see that a written statement has been filed on his behalf wherein false averments were purportedly made by the plaintiff regarding Will of his late mother and the same has been allegedly admitted by him. Defendant no.2 submits that the facts alleged in the WS already placed on record are contrary to the pleadings filed by him in another litigation for the said Will of his mother. It is further alleged that the plaintiff has played fraud upon this Court and intends to cause irreparable loss to defendant no.1 and 2 by using certain blank papers which he got signed from defendant no.2 on the pretext that some legal action is required to be taken against his maternal uncle and aunt relating to certain properties and documents in their possession. As per defendant no.2, the said blank signed documents have been misused by the plaintiff along with the Advocates who represented before the Court that he is representing defendant no.2 as, no such authority was granted by the defendant no.2 to these Advocates. The defendant no.2 submits that he met with a serious accident in November 2024 in Goa and he was hospitalized and due to the said injuries, his memory and mental capability is also affected. He further submits that he has already filed an appropriate complaint u/s 35 of Advocate Act before the Bar Council of Delhi vide complaint dated 30.07.2025 and therefore, seeks liberty of the Court to allow the present application, permit him to withdraw the WS already on record on his behalf and direct the plaintiff to provide complete set of plaint and documents in order to enable him to file WS afresh.

In the support of the application, copy of complaint

bearing no. 245/25 addressed by him against Mr. Prithu, Enrollment no. D-3675/13, Mr. Amit Rajora, Enrollment no. D-6268/18 & Mr. Ashok Kumar, Enrollment no. D-2478/11 is annexed, wherein similar allegations as made in the present application are made against the said Advocates. Copy of the receipt of the complaint issued by BCD is also attached.

Reply is filed on behalf of plaintiff wherein it is submitted that the application filed is misconceived and should be dismissed as provision of Section 151 CPC cannot be invoked to bypass or defeat the expressed scheme of Order VI Rule 17 CPC and Order VIII Rule 1 to 10 of CPC. It is further submitted that the defendant has failed to specify the date, time, manner or circumstance in which the alleged fraud was committed and, the allegations made by defendant no.2 against his own Advocates are contradictory and an afterthought. With respect to the alleged injury of defendant no.2, the plaintiff submits that the said plea is solely introduced to justify his attempt to withdraw the WS as no supporting medical is filed to corroborate the averment. As per the plaintiff, WS was filed in September 2024 after defendant no.2 was duly served and since defendant no.2 chose to remain silent for an inordinate period, he cannot be permitted to file a fresh WS again. It is further submitted that the copy of complaint filed against previous Advocates of defendant no.2 are unilateral allegations alleged by the defendant no.2 where no final opinion has been passed and thus, the said document is self serving and does not offer any credibility to the allegations leveled. The Ld. Counsel for plaintiff submits that the defendant has not filed any

proposed fresh WS along with the present application, which is a mandatory requirement when the pleading is sought to be substituted and, the defendant no.2 was duly served on 19.07.2024 and the signatures in the present application is identical to the WS which is sought to be withdrawn, therefore, the application should be dismissed.

Rejoinder was filed by the defendant no.2 denying the allegations made in the reply and he submits that he is not seeking any amendment, alteration or withdrawal of pleading but liberty of the Court to permit him to file his actual WS on record as the previous one was never signed by him or drafted under his instructions. The defendant no.2 reiterated the allegations made in the application and alleged that fraud is actually played upon by the plaintiff and therefore prays that the application be allowed. Copy of certain medical documents were also filed along with the rejoinder.

During arguments, the Ld. Counsel for defendant no.2 reiterated the allegations made in the application and further alleged that the Whatsapp service affected upon the defendant no.2 is manipulated. The Ld. Counsel for defendant no.2 was questioned on the alleged forged signatures on WS as the WS, its verification and affidavit are printed documents wherein the signatures were appended later and there seems to be no manipulation with the document on the face of it. The Ld. Counsel submitted that the said things can be managed these days.

Per contra, the Ld. Counsel for plaintiff denied the

allegations made and alleged that there is no such inspection application on record which can prove how the defendant got to know about the pendency of the present case, as alleged in the application. It was further argued that the service on the defendant no.2 was made on his Whatsapp number and the said number was used to file complaint by the defendant no.2 before BCD, which proves that the defendant no.2 was throughout in the knowledge of the pendency of the present case. The Ld. Counsel further submitted that the alleged accident, if believed, was in December 2025 and therefore, in any case, defendant no.2 has not explained the reason for not appearing before the Court after the date of service and before the date of accident. The Ld. Counsel also pointed out order sheet dated 28.11.2024 to explain that inadvertently, presence of D1 is marked but it was D2 who appeared on the said date in person as D1 is admitted to be residing in Canada. The Ld. Counsel for plaintiff also objected the application on the ground that no supporting affidavit was filed with the application u/s 151 CPC and the one filed later would not suffice the procedural requirement. The Ld. Counsel also submitted that the medical filed cannot be relied upon as there is no such medical certificate issued by the doctor and because the defendant no.2 was discharged in 3 days. The Ld. Counsel said that the alleged ground of memory loss is not supported with any document and since the application was filed after 1 year, it cannot be considered, as it is meritless.

I have heard the submissions and perused the record.

The crux of the application filed by D2 is that previous

WS was not signed by him and the counsel was not authorized by him. Perusal of the record would show that vakalatnama was filed on behalf of D2 on 23.08.2024 and as per order dated 23.08.2024, copy of summons were served on D2 by way of Whatsapp on 19.07.2024 and by way of speed post on 22.08.2024. WS was filed on behalf of D2 on 24.09.2024. Perusal of WS and its supporting affidavit would show that signature on WS, its verification and the affidavit are identical. The affidavit filed specifically states that it is in support of WS and the same is attested by Oath Commissioner, Sh. Neeraj Kumar, Enrollment no. 46/23, Tis Hazari Court, with affidavit no. 1203/24, attested on 21.09.2024. Both these documents prima facie show that they were first printed and then signed. Further, a bare comparison of signature on present application with WS and affidavit would show that signatures are almost identical. The defendant no.2 has though filed a complaint against the Advocates who filed the WS on his behalf and entered appearance, however, mere filing of complaint would not prove the allegations made by him.

It is also noteworthy to mention that the vakalatnama of the said Advocates, namely Sh. Prithu, Sh. Amit Rajora and Mr. Ashok Kumar also bears the signatures of D2, which again is identical to his signature in the present application. Thus, the submission of D2 that he was made to sign on blank papers by the plaintiff which were eventually misused to file WS is far fetched from reality. The WS and affidavit, as mentioned above, prima facie shows that the document was first printed and then signed and not the opposite. Moreover, the defendant no.2 has

not clarified on which date or month and place he was allegedly made to sign these blank papers. Further, the defendant no.2 has also not explained that when he was served by way of Whatsapp on 19.07.2024, what prevented him to appear in Court either physically or through VC.

Also, this Court is in agreement with submission of Ld. Counsel for plaintiff that as per record, D1 is stated to be residing in Canada and it seems, that for 28.11.2024, the presence of D1 is actually of some other defendant, however, it cannot be observed that it was of D2. Now, even if the said fact is not considered, it is pertinent to mention that as per record, service through Whatsapp was made on D2 on 19.07.2024 and the number on which service was made is the same number which is mentioned by D2 under his name, in the complaint made before BCD by him against his previous counsel. The said fact itself shows that D2 was in the knowledge of proceedings before this Court on 19.07.2024 but no explanation is furnished by him for his absence between 19.07.2024 till 01.09.2025.

As far the ground of the medical illness of D2 is concerned, the same is not supported with medical certificate issued by a Doctor for the above-mentioned period and, therefore, cannot be entertained. The medical documents filed are left to be interpreted by the Court despite knowing that the Court is not a medical expert and thus, the expectation of D2 to hope that the requirement of filing medical certificate can be substituted by filing bunch of medical tests/documents is misconceived.

Accordingly, in view of the above, since D2 has failed to explain his absence after service on 19.07.2024, his plea to file WS afresh cannot be allowed. As far his plea to take WS already filed on record, off the record, the same can be considered after his previous Advocates are given an opportunity of being heard.

Issue court notice to Mr. Prithu, Enrollment no. D-3675/13 and Oath Commissioner, Sh. Neeraj Kumar, Enrollment no. 46/23, Tis Hazari Court to appear in person on the NDOH.

List the matter on 14.10.2026.

**(Shilpi Singh)
ACJ/CCJ/ARC (South),
Saket Courts/21.07.2026**