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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(OS) 273/2024**

ANURADHA MALIK NAYYAR & ORS.

.....Plaintiff

Through: Mr. Sidharth Joshi, Ms.
Ambareen & Ms. Sanjana, Advs.
(appeared through VC)

versus

NIRMLA NAYYAR & ORS.

.....Defendant

Through: None.

CORAM:
JOINT REGISTRAR (JUDICIAL) SH. SUMIT
DALAL

% **ORDER**
23.05.2026

Background

1. The present suit is a suit for declaration, partition and injunction in respect of property bearing No. 11/377, Sunder Vihar, New Delhi. The plaintiffs claim rights in the suit property as legal heirs of late Sh. Om Prakash Nayyar and have also challenged the alleged Will set up by the defendants. The plaint pleads, inter alia, that late Sh. Sanjeev Nayyar and Plaintiff No. 1 had contributed towards construction in the suit property and that the plaintiffs are entitled to their share therein.
2. Vide order dated 21.11.2025, it was noticed that the Joint Document Schedule had not been filed. Learned counsel



for Defendant Nos. 1, ~~and~~ 6 submitted that corrections were required in the Joint Document Schedule prepared by the plaintiffs. The parties were directed to appear physically on the next date for marking of exhibits and for filing of the Joint Document Schedule.

3. On 10.03.2026, learned counsel for Defendant Nos. 1, 5 and 6 objected to the documents mentioned at Serial Nos. 13, 14 and 15 in the Joint Document Schedule on the ground that the said documents had not been filed along with the plaint and, therefore, could not be treated as documents on record without leave under Order VII Rule 14 CPC. Learned counsel for the plaintiffs submitted that the said documents had been filed along with the replication. Part arguments were heard on that date.
4. On 10.04.2026, arguments on the aforesaid objection were heard and concluded.
5. The documents objected to by Defendant Nos. 1, 5 and 6 are the following:
 - a. Document No. 1 / Serial No. 13: Special Power of Attorney dated 01.10.2024 executed by Ms. Madhavi Nayyar in favour of Ms. Anuradha Malik / Anuradha Malik Nayyar.
 - b. Document No. 2 / Serial No. 14: Certificate of registration issued by the Medical Council of India dated 23.04.1980 in respect of Dr. Sanjeev Nayyar, reflecting his medical qualification/registration.
 - c. Document No. 3 / Serial No. 15: MBBS degree/certificate issued by University of Delhi in respect of Dr. Sanjeev Nayyar.



6. The said documents were not filed along with the plaint. They have been filed along with the replication. The replication specifically responds to the pleas taken by Defendant Nos. 1, 5 and 6 in their written statements regarding ownership, construction, alleged financial contribution, the professional status of late Dr. Sanjeev Nayyar, and the authority of Plaintiff No. 1 to act on behalf of another plaintiff.

Submissions

Submissions on behalf of Defendant Nos. 1, 5 and 6

7. Learned counsel for Defendant Nos. 1, 5 and 6 submits that the plaintiffs were obliged to file all documents relied upon by them along with the plaint. It is submitted that the documents now shown at Serial Nos. 13, 14 and 15 in the Joint Document Schedule were admittedly not filed with the plaint.
8. It is further submitted that Order VII Rule 14 CPC mandates production of documents on which the plaintiff sues or relies, at the time of presentation of the plaint. According to learned counsel, if any such document was not filed with the plaint, the same cannot be received without leave of the Court under Order VII Rule 14(3) CPC.
9. Learned counsel submits that a replication cannot be used as a device to introduce documents which ought to have been filed with the plaint. It is submitted that the plaintiffs



have not filed any application seeking leave of the Court and, therefore, the said documents cannot be included in the Joint Document Schedule and cannot be put to admission/denial.

Submissions on behalf of the Plaintiffs

10. Learned counsel for the plaintiffs submits that the documents in question were duly filed along with the replication and are already on record. It is further submitted that these documents are not foundational documents constituting the original cause of action of the suit.
11. It is submitted that the documents have been filed to meet, clarify and rebut the pleas raised by Defendant Nos. 1, 5 and 6 in their written statements. In particular, the defendants have pleaded that late Sh. Om Prakash Nayyar alone purchased/constructed the suit property from his own funds and that late Dr. Sanjeev Nayyar had merely started working after completing his MBBS and internship at the relevant time. The plaintiffs submit that the Medical Council certificate and MBBS degree are responsive to the said defence.
12. It is further submitted that the Special Power of Attorney is not a title document and does not form part of the cause of action. It only relates to the authority of Plaintiff No. 1 to act in the proceedings. It is, therefore, procedural/clarificatory in nature.



13. Learned counsel submitted that no prejudice will be caused to Defendant Nos. 1, 5 and 6 if the documents are retained on record and included in the Joint Document Schedule, since the matter is still at the stage of admission/denial and no evidence has commenced. The defendants will have full opportunity to admit or deny the documents and to raise objections regarding proof, admissibility, mode of proof, relevancy and evidentiary value at the appropriate stage.

Point for Determination

14. The point which arises for determination is:

“Whether the objection raised by Defendant Nos. 1, 5 and 6 to the documents filed by the plaintiffs along with the replication, shown as Serial Nos. 13, 14 and 15 / Document Nos. 1, 2 and 3 in the Joint Document Schedule, is liable to be sustained on the ground that the said documents were not filed with the plaint and no separate leave under Order VII Rule 14 CPC was sought?”

Relevant Statutory Framework

15. Order VII Rule 14 CPC requires the plaintiff to file, along with the plaint, the documents on which the plaintiff sues or relies in support of the claim. Sub-rule (3) provides that a document which ought to have been produced when the plaint was presented, but was not so produced or entered in the list, shall not, without leave of the Court, be received in evidence on behalf of the plaintiff at the hearing of the suit.



16. Order VIII Rule 9 CPC read with subsequent pleadings. A replication is not to be treated as a fresh plaint or as an opportunity to set up an altogether new cause of action; however, it is a permissible pleading where it responds to the pleas, defences and new facts raised in the written statement.
17. Chapter VII Rule 5 of the Delhi High Court (Original Side) Rules, 2018 specifically contemplates that an advance copy of the replication may be served together with legible copies of all documents in the possession and power of the plaintiff which the plaintiff seeks to file along with the replication. The Rule further provides that the replication together with the said documents shall not be accepted unless it contains an endorsement of service. Thus, the Original Side Rules do contemplate filing of documents with the replication.
18. Chapter VII Rule 6 requires the plaintiff to file an affidavit of admission/denial of the documents filed by the defendant along with the replication, and Rule 7 contemplates exhibition of admitted documents by the Court or the Registrar, as the case may be.
19. Chapter VII Rule 14 of the Original Side Rules provides that, except as provided in Order XIII CPC and the Rules, neither party shall be entitled to file documents after completion of pleadings in the suit. In the present case, the documents in question were filed along with the replication and not after the completion of pleadings.
20. Chapter II Rule 3 of the Delhi High Court (Original Side) Rules, 2018 empowers the Registrar to exercise powers of



the Court, including powers relating to admission, production and inspection of documents.

Legal Position

21. The object of Order VII Rule 14 CPC is to ensure early disclosure of documents relied upon by the plaintiff, to prevent surprise to the opposite party, and to enable proper admission/denial and trial management. However, the provision is not intended to exclude relevant documents mechanically, especially where the opposite party has adequate opportunity to respond.

22. In **R.M. Pradeep Bailey v. Gilma Daniel, CM(M) 1506/2023, decided on 18.06.2025**, the Hon'ble Delhi High Court observed that Order VII Rule 14 CPC requires the plaintiff to file relevant documents with the plaint and that subsequent production ordinarily requires leave. At the same time, the Court noticed that after the 2002 amendment, the earlier harsh embargo was relaxed and documents may be received with leave in genuine cases.

23. The Hon'ble Delhi High Court further held that the power to allow additional documents is discretionary and is to be exercised reasonably; the Court must examine the relevance of the documents, the explanation for non-filing and the prejudice, if any, to the opposite party. It was also observed that documents relevant to counter the averments made in the written statement may be permitted, particularly where the trial is still at an initial stage and no serious prejudice is caused.



24. In **Sugandhi (Dead) b. L.P. v. P. Rajkumar, (2020) 10 SCC 706**, while dealing with production of documents at a later stage under Order VIII Rule 1A(3) CPC, the Hon'ble Supreme Court held that procedural and technical hurdles should not be allowed to obstruct substantial justice. It was held that where no serious prejudice is caused to the adversary, the Court must lean in favour of substantial justice and take a lenient view while considering production of documents.
25. In **Delhi Metro Rail Corporation Ltd. v. M/s Parsvnath Developers Ltd., CS(COMM) 463/2022, decided on 27.02.2026**, the Hon'ble Delhi High Court, while dealing with a commercial suit and Order XI CPC, recognised that documents filed along with replication to meet the case set up in the written statement may be permitted to be taken on record. Though the said judgment arose in the context of a commercial suit, the underlying principle that documents responsive to a defence raised after filing of the plaint stand on a different footing is relevant.
26. The same judgment also reiterates that where the trial has not commenced or where the opposite party has an opportunity to cross-examine and contest the documents, prejudice is substantially reduced.
27. It is also settled that taking a document on record or including it in the Joint Document Schedule does not amount to proof of the document. The document must still be proved in accordance with law. Mere marking or exhibition of a document does not dispense with its proof, as held in **Sait Tarajee Khimchand v. Yelamarti Satyam**,



AIR 1971 SC 1865 Further, objections relating to admissibility, relevancy, mode of proof and evidentiary value may be considered at the appropriate stage.

Application of Law to the Present Case

28. In the present case, the documents in question are not of one uniform character. They have to be examined individually.

29. **Document No. 1**, namely the Special Power of Attorney dated 01.10.2024 executed by Ms. Madhavi Nayyar in favour of Ms. Anuradha Malik / Anuradha Malik Nayyar, is not a document on which the plaintiffs sue. It is not a title document. It is not the basis of the claim for declaration, partition or injunction. It does not create or extinguish any substantive right in the suit property. It relates to authority/representation in the proceedings. The same is, therefore, procedural or clarificatory in nature.

30. **Document Nos. 2 and 3**, namely the Medical Council of India certificate dated 23.04.1980 and the MBBS degree/certificate issued by University of Delhi in respect of late Dr. Sanjeev Nayyar, also do not constitute the plaintiffs' foundational cause of action. The plaintiffs' cause of action is based on their alleged status as legal heirs, alleged contribution/possession, challenge to the Will and claim for partition/injunction. The medical qualification documents do not by themselves confer any right, title or interest in the suit property.



31. However, these documents have relevance to the pleas raised in the written statements of Defendant Nos. 1, 5 and 6. The defendants have pleaded, inter alia, that late Sh. Om Prakash Nayyar purchased/constructed the suit property from his own funds and that at the relevant time late Dr. Sanjeev Nayyar had only just started working after completing his MBBS and internship. The replication specifically denies these assertions and seeks to put forth the plaintiffs' response regarding the professional status and financial capacity/contribution of late Dr. Sanjeev Nayyar.

32. Thus, Document Nos. 2 and 3 are in the nature of documents filed in answer to a defence raised in the written statements. They are not documents which create the plaintiffs' right to sue. They are rebuttal/clarificatory documents intended to meet the defendants' version.

33. Order VII Rule 14 CPC applies with full rigour to documents on which the plaintiff sues or relies as foundational documents in support of the plaint. However, documents which become relevant only because of pleas raised in the written statement stand on a different footing. Such documents may legitimately accompany a replication, subject to the Court's control and subject to the opposite party's right to contest them.

34. The Delhi High Court (Original Side) Rules, 2018 also expressly contemplate filing of documents along with replication. Rule 5 of Chapter VII would become otiose if every document filed with replication were to be rejected merely because it was not filed with the plaint. The correct



approach is to examine whether such documents are foundational documents which ought to have been filed with the plaint, or whether they are responsive to the defence raised in the written statement.

35. In the facts of the present case, the documents in question fall in the latter category. They are not being introduced at the stage of evidence or after commencement of trial. The matter is presently at the stage of admission/denial and finalisation of the Joint Document Schedule. The defendants have full opportunity to admit or deny the documents. They shall also have full opportunity to contest their execution, genuineness, admissibility, mode of proof, relevancy and evidentiary value at the appropriate stage.

36. No prejudice, much less irreparable prejudice, would be caused to Defendant Nos. 1, 5 and 6 if the said documents are permitted to remain on record and are included in the Joint Document Schedule. On the contrary, excluding the documents at this pre-trial stage, despite their connection with the pleadings in the written statements and replication, would be an unduly technical approach.

37. It is clarified that this order does not decide the admissibility, proof, genuineness, relevancy or evidentiary value of the said documents. It only decides whether the said documents can remain on record and be included in the Joint Document Schedule at this stage.

Conclusion / Directions



39. For the reasons stated above, the objection raised by Defendant Nos. 1, 5 and 6 is **rejected**.
40. Document Nos. 1, 2 and 3 filed by the plaintiffs along with the replication, shown as Serial Nos. 13, 14 and 15 in the Joint Document Schedule, are permitted to remain on record and shall be included in the Joint Document Schedule.
41. The said documents shall be put to admission/denial by Defendant Nos. 1, 5 and 6. The defendants shall file their affidavit of admission/denial in respect of the said documents within **two weeks**.
42. The plaintiffs shall, if not already done, supply legible copies of the said documents to learned counsel for Defendant Nos. 1, 5 and 6 within **three days**.
43. The parties shall thereafter finalise the Joint Document Schedule in accordance with the Delhi High Court (Original Side) Rules, 2018 and let the same be filed along with its hard copy at least 2 weeks prior to the next date of hearing. Let the hard copies of the documents be also filed.
44. It is expressly clarified that taking the aforesaid documents on record and including them in the Joint Document Schedule shall not amount to:
- proof of the documents;
 - admission of their contents by the defendants;
 - acceptance of their admissibility or relevancy; or
 - waiver of any legally permissible objection available to Defendant Nos. 1, 5 and 6.
45. Defendant Nos. 1, 5 and 6 shall be at liberty to raise all objections as to proof, mode of proof, admissibility,



genuineness, relevance and evidentiary value of the documents at the appropriate stage, which shall be considered in accordance with law.

46.No order as to costs.

47.List for admission/denial of documents on **28.10.2026**.

SUMIT DALAL
JOINT REGISTRAR (JUDICIAL)

MAY 23, 2026/nk