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

+ CS(OS) 743/2012
RAJAT PANDHI

..... Plaintiff

Through: Mr. Randhir Kumar, Adv.

versus

POONAM KAWLRA & OTHERS

..... Defendant

Through: Mr. K.S. Mahadevan & Ms.
Swati Bansal, Advs. for D-3 to 5
(Mobile No.9810696425)

CORAM:
JOINT REGISTRAR (JUDICIAL) SH. SUMIT
DALAL, (DHJS)

% **ORDER**
11.02.2026

CS(OS) 743/2012

1. The matter is at the stage of RDE.

I.A.No.30244/2025 (under Order XVI Rule 1 CPC filed on behalf of defendant no.3 to 5 for summoning of witnesses)

2. By way of captioned IA, defendant no.3 to 5 seeks permission to summon two witnesses mentioned at serial no.3 of the captioned IA.

3. Submissions heard.

4. Learned counsel for the plaintiff has vehemently opposed the captioned I.A. on the ground that defendant no. 3 has not filed any written statement in the present case. It is submitted that the written statement stated to have been filed on behalf of defendant nos. 3 to 5 is accompanied only by the affidavit of defendant no. 4



and no affidavit of defendant no. 3 has been filed along therewith. It is further contended that the written statement does not bear the signature of defendant no. 3. Learned counsel submits that in view of these circumstances, the written statement cannot be treated as having been filed on behalf of defendant No. 3 and, consequently, the captioned I.A. is liable to be dismissed. It is further argued that the deposition of DW-1 Sh. Virender is liable to be struck off from the record, as no written statement on his behalf was ever taken on record and, in the absence of pleadings, he cannot be permitted to lead evidence. It is submitted that the recording of evidence of DW-1 Sh. Virender is an inadvertent error and the same ought to be rectified by striking off his evidence.

5. In rebuttal, learned counsel for defendant nos. 3 to 5 submits that the written statement on behalf of defendant nos. 3 to 5 is already on record and draws the attention of this Court to Paragraph II of the Preliminary Submissions of the written statement, wherein it is mentioned that defendant no. 4 has been authorized by defendant nos. 5 and 6 to file the written statement. It is thus submitted that the written statement on record is a joint written statement on behalf of defendant nos. 4 to 6. Upon being queried as to whom he represents, learned counsel submitted that he represents defendant nos. 3 to 5, who were previously arrayed as defendant nos. 4 to 6.
6. This Court has perused the record and notes that no amended memo of parties is on record. The memo of



parties available on record is the one originally filed along with the suit instituted by late Sh. Mohinder Kalra. It is noted that Sh. Mohinder Kalra expired and, subsequently, vide order dated 09.01.2018, defendant no. 7, namely Rajiv Pandhi, was transposed as Plaintiff. The record further reveals that certain defendants expired and their legal representatives were brought on record; however, as noted above, no amended memo of parties has been filed.

7. This Court further observes that the written statement on record is titled as “Written Statement on behalf of defendant nos. 4 to 6”, whereas at the foot of the written statement only “defendant no. 4” is mentioned. The written statement does not bear the signature of defendant no. 4, and there is no verification clause appended thereto, though the affidavit accompanying the written statement is duly signed by defendant no. 4. There is no affidavit on record on behalf of defendant no. 5 and 6 along with the written statement.
8. Upon the Court taking note of the aforesaid defects, learned counsel for defendant nos. 3 to 5 submits that the defects are merely formal in nature, which submission is opposed by learned counsel for the plaintiff. At this stage, learned counsel for the defendant no.3 to 5 prays that the matter be listed before the Hon’ble Court for appropriate orders regarding the defects in the written statement. The said request is not opposed by learned counsel for the plaintiff.



9. Accordingly, in view of the dispute regarding the written statement and the submissions made, and there being no objection, let the matter be placed before the Hon'ble Court for further directions on **16th March, 2026.**

SUMIT DALAL, (DHJS)
JOINT REGISTRAR (JUDICIAL)
FEBRUARY 11, 2026/nk