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

CNR No. DLHC010360542026

+ **CM(M) 1744/2026 & CM APPL. 51848/2026**

SUDESH CHHIKARA AND ANR Petitioners

Through: **Mr. Jaipal Singh, Adv.**

versus

BALJEET SINGH AND ORS

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER

21.08.2026

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1. Through the present petition, the petitioner challenges the order dated 02.07.2026, passed by the learned DJ-05, West Delhi in Civil Suit CIV DJ-177/2017 titled as '*Sudesh Chhikara & Anr. vs. Baljeet Singh & Ors.*' where the court has allowed the respondents' application for summoning of witnesses, and has ordered the summoning of record clerk from the office of Sub-Registrar-IIA Delhi as witness.
2. The brief facts of the present case are as follows –
3. The petitioners/plaintiffs have instituted the underlying suit seeking a decree of damages to the tune of Rs. 25 lacs on account of damage to the property bearing no. 487/35, National Market Peera Garhi, Delhi. The respondents filed their written statement thereto, against which the petitioners filed their replication.
4. The learned trial court *vide* order dated 06.02.2019 framed 6 issues,



and *vide* order dated 06.08.2024 framed an additional issue. The PE was closed on 02.04.2026, and the matter was listed for DE on 02.07.2026. On 02.07.2026 the respondents filed their list of witnesses, and filed an application for summoning of witnesses.

5. In the said application, the respondents sought summoning of the concerned official from the office of Sub-Registrar II Punjabi Bagh, along with record of Gift Deeds dated 23.05.2016 and 03.08.2016.

6. The said application came to be allowed *vide* impugned order dated 02.07.2026 wherein the learned trial court dismissed the objection of the petitioner and summoned the witnesses. The learned trial court, however, reserved the right of the petitioner to raise an objection to the evidentiary value of the documents at the stage of final arguments. Aggrieved, the petitioner has approached this Court under Article 227 of the Constitution of India.

7. The main objection which has been raised and argued by the learned counsel of the petitioners in the present petition is that the by summoning the official from the Sub-Registrar's office, the respondents are attempting to lead secondary evidence by way of the present application, and the same is contrary to the law as laid down by the judgment of Hon'ble Supreme Court in case *Neeraj Dutta vs. State (Govt. of NCT)* AIR 2023 SC 330.

8. He has further submitted that it is trite law under Section 59 of the Bharatiya Sakshya Adhiniyam, 2023 (old Section 64 of the Indian Evidence Act) that a document sought to be proven by way of primary evidence, especially when the same is in the possession of the party seeking to prove it, ought not to be adduced as a secondary evidence. In the present case, by summoning the official from the Sub-Registrar's office along with the Gift



Deeds, the respondents are introducing secondary evidence as primary evidence, and are giving a go-bye to the requisite evidentiary threshold.

9. This Court is of the considered opinion that the petitioner's contention proceeds on an assumption as to the nature of evidence that the concerned witness would ultimately adduce, even before the witness has entered the witness box. The learned counsel for the petitioner has, therefore, proceeded on the premise that the evidence to be adduced would necessarily be in the nature of secondary evidence, without there being any basis at this stage to so presume.

10. A bare perusal of the application seeking summoning of witnesses also does not indicate in the slightest that the respondent seeks to adduce secondary evidence from the summoned witnesses. That being the case, the judgment sought to be relied upon by the petitioners is inapplicable. It is also relevant to note that the liberty given by the learned trial court *vide* the impugned order, to raise objections to the evidentiary value of the documents given by the summoned witness during final arguments, has not left the petitioner remediless.

11. Accordingly, this Court is of the opinion that the present petition is premature and there is no infirmity in the impugned order.

12. The petition, along with pending applications, stands dismissed.

13. It is made clear that this Court has not gone into the merits of the case.

AJAY DIGPAUL, J

AUGUST 21, 2026/AS/sg