



2026:DHC:3266



\$~54

* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 20th April, 2026***

+ CM(M) 772/2026, CM APPL. 23074/2026 & CM APPL. 23075/2026
JANKI DEVIPetitioner

Through: Mr. M. S. I. Israili, Advocate.

versus

ANITA & ORS.Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER (Oral)**Rajneesh Kumar Gupta, J.**

1. This hearing has been conducted through hybrid mode.
2. The present petition has been filed under Article 227 of the Constitution of India, assailing the impugned order dated 19th March, 2026, passed by the learned Trial Court in *CS No. 78/2022*, whereby an application filed by the petitioner/plaintiff under Section 151 of the Code of Civil Procedure, 1908 read with Section 148 (1) of Indian Evidence Act, seeking recall of order dated 15th November, 2025, has been dismissed.
3. Heard. Record perused.
4. Learned Counsel for the petitioner has argued that the learned Trial Court has disallowed Question No. 10 put to DW-1 without appreciating the facts and circumstances of the case. It is further submitted that unless the petitioner is permitted to cross-examine the DW-1 on the said aspect, grave prejudice would be caused to the petitioner. Learned Counsel for the



petitioner has also placed reliance upon the judgment of this Court in ***W.P.(CRL) 448/2013*** titled ***Irfan Badshah V State***.

5. Perusal of the record shows that DW-1, Ms. Anita, has already been examined, cross-examined and discharged. The relevant portion of the cross-examination, where Question No. 10 has been disallowed, reads as under:

“10. My husband Raju expired in May, 2020 during covid period. Raju was being treated at Safdarjung Hospital, Delhi. I expended about Rs.2 lacs in his treatment. Vol. The said money was arranged by taking loan from my daughter’s father-in-law.

Q: Are you in possession of any receipt qua the money taken from your daughter’s father in law?

Disallowed being not relevant.”

6. The relevant portion of the impugned order dated 19th March, 2026 reads as under:

“3. Suffice is to say that essentially plaintiff wants recall of the order which, in law, can only happen inter alia if there is an error apparent on the face of record. Nothing has been brought to my notice to show how the question recorded at para 10 of cross-examination dated 15.11.2025 has an error apparent on the face of record. Vide the above question, counsel wanted the witness to answer about possession of some money receipts with respect to any loan taken by defendant from her daughter's father-in-law for the purposes of treatment of defendant's husband Raju. The said receipts are not fact in issue in this case. Even otherwise, the said question is not relevant for the controversy.

4. In the present case, plaintiff has sued the defendants for recovery of some money given as loan. Defendants claim that plaintiff retained the ATM card which was used to withdraw the entire loan with interest from the relevant account and



thus, nothing is payable. Possession of ATM card with plaintiff is admitted.

5. Now, the dispute between plaintiff and defendant is why the ATM card of defendant's husband (referred above) was being held by plaintiff? Plaintiff in her replication claims that even though she retained the ATM card, the said card was not used for repayment of loan; but it was used for withdrawal of money eventually used for treatment of defendant's husband. The onus of the said facts is for the plaintiff to discharge and the question disallowed (at para No. 10) is neither relevant to prove or disprove the above facts. Counsel for plaintiff appears to be searching for a needle in a hay stack and the present application is only aimed to delay the proceedings. There is neither any error on the face of record nor any need to recall DW-1. Accordingly, the application is dismissed."

7. A perusal of the impugned order shows that the learned Trial Court has passed a well-reasoned order after due consideration of the material on record. This Court does not find any infirmity or illegality in the impugned order and it is upheld.

8. Accordingly, the petition is dismissed as being devoid of merit. Pending application(s), if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

APRIL 20, 2026/MR/ABK