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

Reserved on: 12 October 2026
Pronounced on: 06 November2026

\# **CNR No : DLHC010156362022**

\+ TEST.CAS. 37/2022

MOHINDAR MOHAN KHANNA .....Petitioner

Through: Mr. Saurabh Dev Karan Singh, Advs.

versus

STATE GOVT. OF NCT OF DELHI & ORS.
.....Respondents

Through: Mr. Shubham Saigal and Mr. Siddharth Jain, Advs.

CORAM:
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% 06.11.2026

I.A. 27533/2026 (Permission for recording of evidence of respondent nos. 2 and 5 through video conferencing)

1. The present application has been filed on behalf of Respondent Nos. 2 and 5 seeking permission for recording their evidence through video conferencing in terms of Order XVIII of the Code of Civil Procedure, 1908, the Delhi High Court (Original Side) Rules, 2018, and the Delhi High Court Electronic Evidence and Video Conferencing Rules, 2025 [hereinafter, "VC Rules, 2025"].

2. The captioned petition has been instituted under Section 276 of the Indian Succession Act, 1925, seeking grant of probate in respect of the alleged Will dated 18.12.2010 of late Mr. Surender Mohan Khanna. Respondent Nos. 2 and 5 have jointly filed

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objections to the petition. By order dated 29.10.2025, this Court directed the petitioner to file his evidence affidavit, which was filed on 14.02.2026 and was taken on record on 08.04.2026. Mr. Alakh Kumar, Advocate, was appointed as the Local Commissioner for recording the evidence of the parties. The petitioner's evidence was thereafter recorded on 10.04.2026, 15.04.2026, 23.04.2026, 24.04.2026 and 08.05.2026.

3. Learned counsel for Respondent Nos. 2 and 5 submits that the applicants are senior citizens, aged 79 and 77 years respectively, and are residing in the United Kingdom and the United States of America. It is contended that the evidence is likely to be recorded between October 2026 and January 2027, when Delhi-NCR ordinarily experiences severe air pollution. It is submitted that prolonged exposure to such conditions would pose a health risk to the applicants, who are not accustomed to the prevailing climatic conditions in Delhi during this period. The applicants, therefore, seek permission to have their evidence recorded through video conferencing. In the alternative, they have expressed their willingness to appear physically in India in February or March 2027.

4. Learned counsel for the petitioner opposes the application submitting that there is a possibility of witnesses being tutored during remote examination, the availability of the court record and relevant documents at the remote point, the procedure for obtaining signatures on the statements recorded during examination, and the time difference between India and the countries in which the applicants reside. The petitioner has also opposed the application on the ground that the request would result in further delay in the proceedings.

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5. In response, learned counsel for Respondent Nos. 2 and 5 submits that the, VC Rules, 2025 prescribe a detailed procedure to address the aforesaid concerns. Reliance is placed upon Rules 10, 13 and 14 of the VC Rules, 2025, which provide safeguards against tutoring of witnesses, prescribe the procedure for making relevant documents available at the remote point, regulate the exhibition of documents during examination and provide a mechanism for obtaining signatures on the transcript of the evidence recorded. It is submitted that the applicants undertake to comply with the applicable Rules and all directions issued by this Court.

6. With respect to the objection concerning the difference in time zones, learned counsel submits that the time difference between India and the United Kingdom during the proposed period of examination is manageable and that the examination can be scheduled at a mutually convenient time. It is further submitted that the High Commission of India in London facilitates the recording of evidence through video conferencing pursuant to directions issued by Indian Courts. Reliance is also placed upon the decision of this Court in ***Phillips 66 Company v. Raaj Unocal Lubricants Limited,*** reported as **2022 SCC OnLine Del 3268**, in support of the submission that evidence of witnesses residing abroad may be recorded through video conferencing, subject to compliance with the applicable procedural requirements.

7. Learned counsel for Respondent Nos. 2 and 5 further submits that the application has been necessitated by the circumstances in which the applicants are required to travel to India for recording their evidence and is not intended to delay the proceedings. In this regard, it was submitted that it was the petitioner himself who was responsible for delay in recording evidence.

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8. The Court has considered the submissions advanced on behalf of the parties. The question for consideration is whether, in the facts and circumstances of the present case, the evidence of Respondent Nos. 2 and 5 should be recorded through video conferencing without compromising the fairness of the proceedings or the petitioner's right to effectively cross-examine them.

9. The applicants are senior citizens residing outside India, one in the United Kingdom and the other in the United States of America. The request is founded on their age, the inconvenience associated with international travel and the health concerns arising from the air pollution conditions ordinarily prevailing in Delhi during the proposed period of examination. These circumstances constitute relevant considerations in determining the appropriate mode of recording their evidence. The request, however, must be considered in conjunction with the procedural safeguards necessary to ensure that the evidence is recorded fairly and that the petitioner is afforded an effective opportunity to test the testimony of the applicants.

10. In ***Phillips 66 Company v. Raaj Unocal Lubricants Limited,* 2022 SCC OnLine Del 3268**, this Court considered an application seeking recording of evidence through video conferencing of witnesses residing in the United States of America. The Court recognised the utility of video conferencing in facilitating the recording of evidence of witnesses residing abroad, while emphasising that the process must preserve the rigour of examination and cross-examination and the fairness of the trial. The decision also underscores that concerns regarding the presentation of documents and assessment of a witness's demeanour must be considered in the context of the safeguards available under the applicable Rules.

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11. The objections raised by the petitioner in the present case do not, by themselves, warrant rejection of the application. Rule 10 of the VC Rules, 2025 provides safeguards to ensure that a person being examined at the remote point is not prompted, tutored, coaxed, induced or coerced by any person. The Rule also provides for the transmission of electronic copies of relevant documents to the coordinator at the remote point, subject to the Court's permission for their use by the witness. Further, Rule 14 prescribes the procedure for exhibiting or showing documents to a witness at the remote point. The concern regarding the availability and presentation of documents can, therefore, be addressed by ensuring strict compliance with these provisions and by permitting the petitioner to put relevant documents to the applicants during cross-examination in accordance with the prescribed procedure.

12. Similarly, Rule 13 of the VC Rules, 2025 prescribes the procedure for obtaining signatures on the transcript of the person examined through video conferencing and for transmitting the signed transcript to the Court Point. The procedure contemplated under the said Rule provides a mechanism for incorporating the signed transcript into the judicial record. The petitioner's apprehension in this regard can accordingly be addressed by directing the Local Commissioner to ensure compliance with the prescribed procedure. The concerns relating to the integrity of the examination can also be addressed by ensuring that the applicants remain visible throughout the proceedings and that the coordinator at the remote point discharges the duties assigned under the Rules.

13. As regards the difference in time zones, the applicants have specifically addressed the issue in their written submissions and have proposed that the evidence be scheduled at a time that would

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facilitate participation from the respective countries. The difference in time zones, in the circumstances of the present case, does not appear to constitute an insurmountable impediment. The learned Local Commissioner can settle the dates and timings in consultation with the parties and the concerned coordinators, keeping in view the local time at each remote point and the requirement of conducting the proceedings in an orderly manner.

14. The Court has also considered the petitioner's objection that the application would cause delay. I am of the opinion that subject to the necessary arrangements being made, recording the applicants' evidence through video conferencing would avoid the need to defer their examination until their proposed physical visit to India in February or March 2027.

15. There can be no disagreement on this issue that recording evidence through video conferencing must not result in any dilution of the procedural safeguards applicable to examination and cross-examination. The permission sought is, therefore, subject to strict compliance with the VC Rules, 2025 and such directions as may be necessary to ensure that the applicant’s testimony is recorded in a fair, transparent and reliable manner. The petitioner shall retain a full and effective opportunity to cross-examine both applicants, including with reference to documents relevant to their testimony.

16. There is a suggestion that defendant No.5, who resides in USA will come to the UK, where defendant No.2 resides, and from that place the evidence of both of them can be recorded.

17. In view of the aforesaid circumstances, the Court is of the opinion that the application deserves to be allowed. The evidence of Respondent Nos. 2 and 5 shall accordingly be recorded through video conferencing, subject to the following directions:

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(i) Accordingly, the "Court Point" for conducting the cross-examination of Mr. Virendar Mohan Khanna(Respondent no.2) and Mrs. Savita Gambhir(Respondent no.5) is premises of this Court where the learned Local Commissioner will hold the proceedings pursuant to the directions contained in the present order.

(ii) The "Remote Point" for Respondent no. 2 will be designated as High Commission of India, London, UK.

(iii) The "Remote Point" for Respondent no. 5 is Consulate General of India, New York, USA.

(iv) Registrar, IT is directed to appoint an IT officer, to ensure that video conferencing facilities are available for extended timelines, on the dates intimated by the learned Local Commissioner.

(v) For such service of the IT Officer, Respondent Nos. 2 & 5 are directed to pay in advance, a composite fees of Rs.1 lakh (One lakh only) to the concerned IT Officer appointed by Registrar, IT. This fee should be equally divided by respondent no.2 and 5.

(vi) It is directed that an official from High Commission of India, London, UK and Consulate General of India, New York, USA shall be designated and will remain present at the "Remote Point" on the date and time to be communicated by the learned Local Commissioner. The remuneration or expense as per rules shall be communicated by the High Commission of India, London, UK and Consulate General of India, New York, USA to the learned Counsel for Respondent No. 2 and 5 who shall deposit the same in advance with the High Commission of India, London, UK and Consulate General of India, New York, USA respectively.

(vii) Learned Local Commissioner shall, in consultation with the parties and the concerned coordinators, determine the dates and timings for recording the evidence of respondent no.2 and 5, having regard to the time difference between India and the respective remote locations.

(viii) The petitioner shall be afforded a full and effective opportunity to cross-examine Respondent Nos. 2 and 5 who shall remain available for the entire duration of their respective examination and shall comply with the directions of the learned Local Commissioner.

(ix) The Registry is directed to send a copy of this Order as well as the VC Rules to the High Commission of India, London, UK and Consulate General of India, New York, USA through e-mail.

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(x) The learned Local Commissioner, parties and the concerned coordinators shall ensure strict compliance with the provisions governing the identification of the witnesses, prevention of tutoring, presentation and exhibition of documents, administration of oath, recording of evidence, signing of transcripts and preservation of the electronic record.

18. The application is accordingly allowed in the above terms. In view of the permission granted for recording evidence through video conferencing, the alternative prayer seeking permission for physical appearance in India in February or March 2027 does not require separate consideration.

19. The application stands disposed of.

VINOD KUMAR, J

NOVEMBER 06, 2026/*vb/harshit*

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