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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010385062026
+ RFA 861/2026, CM APPL. 55438/2026
CM APPL. 55439/2026, CM APPL. 55440/2026
CM APPL. 55441/2026
ASHOK KUMAR VERMA (DECEASED) THROUGH HIS LEGAL
HEIRS

.....Appellant

Through: Mr. Sanjeev Anand, Mr. Arush
Khanna and Mr. Akarsh Pandey,
Advocates.

versus

SMT. SANTOSH DEVI

.....Respondent

Through:

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER
19.08.2026

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1. Regular First Appeal under Section 96 read with Section XLI CPC has been filed against the Judgment and Decree dated 30.03.2026 whereby the Suit of the Plaintiff/Respondent has been decreed for Rs.10 lakhs along with pendent lite and future interest @ 18% per annum.
2. The only ground agitated in the Appeal is that the Appellant Ashok Kumar Verma had died on 28.03.2021 but the Application under Order XXII Rule 4 CPC was filed only on 01.09.2022 when the matter already stood abated and then too only two legal heirs were impleaded. The Application was allowed on 31.01.2023. The Judgment dated 30.03.2026 is a nullity. It is asserted that since the Application under Order XXII Rule 4 CPC has been filed without seeking setting aside of abatement, the Suit already stood abated and the Judgment was delivered in an abated Suit and



is, therefore, a nullity.

3. Learned Senior Advocate on behalf of the Appellant submits that he may be permitted to withdraw the present Appeal and to file a fresh by taking other grounds on merit to challenge the Appeal.

4. In view of the submissions made, the Appeal is permitted to be withdrawn with liberty as prayed for.

5. The Appeal is accordingly disposed of along with the pending Applications.

NEENA BANSAL KRISHNA, J

AUGUST 19, 2026/va