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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **RFA No.37/2015**

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Date of decision : 20th February , 2015

NARESH KUMAR YADAV & ANR.

..... Appellants

Through : Mr. Sultan Singh, Adv.

versus

MUKESH CHAND YADAV

..... Respondent

Through : None.

CORAM :-

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

CM No.1072 /2015

Allowed, subject to just exceptions.

RFA 37/2015 & CM 1071/2015

1. The appellants have challenged the impugned judgment dated 20.08.2014 whereby the learned Trial Court had dismissed the appellants' suit for declaration, partition and permanent injunction. The appellants' father late Shri Dalip Singh died on 21.06.2005 leaving behind his widow, six sons and two married daughters. Late Shri Dalip Singh left behind Will dated 04.11.2004 whereby he bequeathed the suit property in favour of the respondent. The respondent filed a petition for probate bearing

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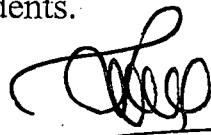
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PC No.05/2011 in which appellants' mother, three brothers and two married sisters gave their no objection. However, the appellants' contested probate petition and raised several objections which were all considered and rejected by the learned Probate Court. The Probate Court granted the probate of the Will dated 04.11.2004 of the deceased vide judgment dated 24.10.2011. The appellants chose not to challenge the said judgment which has thus attained finality.

2. The appellant is seeking to agitate grounds which have already been considered by the learned Probate Court and therefore, the findings of the learned Probate Court shall operate as *res judicata*.

3. There is no infirmity in the findings of the learned Trial Court. This appeal is therefore dismissed.

4. Copy of this judgment be sent to the respondents.


J.R. MIDHA, J

FEBRUARY 20, 2015

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