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

+ **W.P.(C) 6435/2007**

NIRMLA & ORS.

..... Petitioners

Through : Mr Aditya Singh, Advocate.

versus

GOVT. OF N.C.T. OF DELHI & ORS.

..... Respondents

Through : Mr Vikas Aggarwal, Advocate for applicant.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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17.03.2016

CM Nos.16321/2012(amendment of order dated 04.06.2010) & 16322/2012(stay)

On the previous date, the learned counsel for the respondent No.1 was present and took time to file the reply. That reply has still not been filed. In fact, nobody appeared for the respondents.

Despite repeated opportunities, respondents have not filed replies to the applications. By virtue of the judgment dated 04.06.2010, this Court had directed as under:-

“35. For the aforesaid reasons, we hold that the provisions of the HSA would, after the amendment of 2005, have over-riding effect over the provisions of Section 50 of the DLR Act and the latter provisions would have to yield to the provisions of the HSA, in case of any inconsistency. The rule of succession provided in the HSA would apply as opposed to the rule prescribed under the DLR Act. The petitioners are, therefore, entitled to succeed to the disputed agricultural land in terms of the HSA. The respondent Nos.1 & 2 are directed to mutate the disputed agricultural land, to the extent of Late Inder Singh's share, in favour of the petitioners and respondent Nos.3, 4 & 5 as per the HSA.”

From the above extract, it is evident that the provisions of the Hindu Succession Act, 1956 would, after the amendment of 2005, have overriding effect over the provisions of Section 50 of the Delhi Land Reforms Act, 1954. Rule of Succession that has to be followed is one that is provided under the Hindu Succession Act, 1956.

In the said extract, we have indicated that the petitioners and respondent Nos.3,4 & 5 are entitled to have their names mutated in respect of the agricultural land to the extent of late Shri Inder Singh's share. The present applicant, who is the mother of late Shri Inder Singh, was left out. She is a class-I legal heir. The applicant – Smt. Nihali Devi is class one heir of late Shri Inder Singh and, therefore, she is also entitled to the same benefit as the petitioners and the respondent Nos.3,4 & 5 were entitled to.

The respondent Nos.1 & 2 are directed to proceed on the basis of this clarification.

The applications stand allowed, as above.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

MARCH 17, 2016

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