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

% ***Date of decision: 07<sup>th</sup> October, 2024***

+ **FAO 300/2019 & CM APPL. 34063/2019 & CM APPL. 47345/2021 & CM APPL. 7049/2024 & CM APPL. 22250/2024**

**DIWAKAR BATRA**

.....Appellant

Through: Mr. Rahul Gupta with Mr. Arav  
Kapoor and Mr. Raghwendra Pratap  
Rao, Advocates.

versus

**STATE & ORS**

.....Respondents

Through: Mr. Abhinav Garg, Panel Counsel for  
GNCTD with Adv. Mihir Gujjewar

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**J U D G M E N T (oral)**

1. Ms. Kanta Batra (since deceased) had three sons i.e. Diwakar Batra (appellant herein), Ratnakar Batra and Mr. Sudhakar Batra.
2. Based on Will dated 25.09.2002, executed by Ms. Kanta Batra and subsequent to her death on 22.03.2015, a petition under Section 276 of Indian Succession Act, 1925 seeking grant of probate/Letter of Administration was filed by Sh. Ratnakar Batra.
3. The other two brothers were, *inter alia*, made respondents in the above said petition and they both objected to the grant of probate.
4. Fact, however, remains that *vide* judgment dated 24.04.2019, a *Letters of Administration* was granted in respect of front half portion of



first floor (without terrace rights) of property bearing No.27, Block A-2, Janak Puri, New Delhi, 110058. There were certain other directions also with respect to the bank deposits of the deceased.

5. As per the above Will, the beneficiary with respect to the immovable property/bank deposits was Sh. Ratnakar Batra and it was also mentioned in the Will that he was the one, who was taking her care and also of her other son Sh. Sudhakar Batra, who was not keeping well. It was also mentioned therein that her such son Sudhakar, was mentally retarded and she also expressed her desire in the above said Will that Sh. Ratnakar Batra would continue to take care of her such son Sudhakar Batra, even after her death.

6. Feeling aggrieved by the above grant of *Letters of Administration*, the appeal in question has been filed by Sh. Diwakar Batra.

7. However, it is now jointly informed that the matter has been amicably settled between the parties and a Compromise Deed has also been executed on 10.04.2024.

8. In terms of the above said deed, the terms of the settlement which are, otherwise, in synchronization of the above said Will as well, are as under:-

(i) Sh. Ratnakar Batra has undertaken that as per the last wish of his mother, he would take requisite care of his brother Sh. Sudhakar Batra and would also bear all expenses (including medical expenses) of his



such brother.

(ii) It is also agreed that his such brother would continue to reside in the same suit property i.e. the above said suit property of Janak Puri and in case, there is any requirement of shifting to some other property, Sh. Ratnakar Batra undertakes that he would also shift Sh. Sudhakar Batra with him to any such property and would continue to take his best care and would continue to bear all his expenses, including medical expenses.

(iii) Sh. Diwakar Batra and Sh. Ratnakar Batra reiterate the above terms and state that the matter has been amicably settled.

(iv) Sh. Ratnakar Batra submits that he would abide by the terms as mentioned in the above said Compromise Deed.

(v) Sh. Diwakar Batra, in view of the compromise, is not interested in pursuing his present appeal.

9. Both the sides admit the correctness of the Settlement dated 10.04.2024, which is duly signed by both of them.

10. Learned counsel for both the sides have also informed this Court that when the matter was pending before the learned Trial Court, both the sides had prayed for appointment of guardian keeping in mind the medical condition of Sh. Sudhakar Batra but the learned Trial Court directed his appearance before the Court and after having some interaction with him, observed that there was no requirement of appointing any guardian.



11. It also needs to be highlighted that an application has been moved under Order XXXII Rule 15, read with Rule 3 sub Rule 2 and Rule 5 and Section 151 CPC by Sh. Ratnakar Batra praying therein that he be appointed as guardian *ad litem* for his said real brother Sh. Sudhakar Batra. The application is duly supported by an affidavit.

12. It has also been mentioned in the supporting affidavit that being brother, Sh. Ratnakar Batra is a fit person to be appointed as such guardian while also clarifying that his interest is not averse to the interest of Sh. Sudhakar Batra.

13. The attention of this Court has also been drawn towards one certificate issued to Sh. Sudhakar Batra by the *Department of Empowerment of Persons with Disabilities*, Ministry of Social Justice and Empowerment, Govt. of India. Such certificate indicates the disability type of Sh. Sudhakar Batra as *mental retardation* and the percentage of disability has been shown as 50%.

14. The parents of Sh. Sudhakar Batra are no longer alive and the other brother, who is present in Court, also has no objection to such appointment so that in terms of the Settlement Deed, the requisite care of Sh. Sudhakar Batra is taken by his other brother Sh. Ratnakar Batra.

15. Keeping in mind the facts raised in the above said application, the affidavit in support thereof, the no objection given by learned counsel for the appellant and the fact that he is real brother of Sh. Sudhakar Batra, the application stands allowed.



16. The Compromise Deed dated 10.04.2024 is also made part of this Order and in terms of the settlement, the above said appeal is disposed of as not pressed.

17. Needless to mention, the parties shall remain bound by the terms of the settlement.

**(MANOJ JAIN)**  
**JUDGE**

**OCTOBER 07, 2024/st**