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

% ***Date of Decision: 23rd April, 2025***

+ **CM(M) 726/2025 & CM APPL. 23688-23689/2025**

JYOTI BEHL

.....Petitioner

Through: **Mr. Saurabh Kansal with Mr. Suraj
Kumar Jha, Advocates.**

versus

KARAN JAIN & ANR.

.....Respondents

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The point raised in the present petition is very short and precise.
2. One Karan Jain had filed a suit against Ms. Monika Luthra (since deceased). The suit was seeking specific performance of one Agreement to Sell dated 20.07.2011 with respect to one property situated at Sector 6, Rohini, Delhi.
3. When the abovesaid suit was taken up by the concerned Court on 23.01.2018, keeping in mind the stand taken in the pleadings and noticing that there was no issue which was required to be put to trial, the suit was decreed. While passing the decree, the defendant, who was represented by DLSA counsel, submitted to the learned Trial Court that there was some dispute going on between her and her daughter and she expressed apprehension that if the amount was paid to her, then and there, her such daughter may grab the same.



4. Be that as it may, based on the abovesaid decree, eventually, Execution Petition was filed, which was registered as Execution Civil No.800/2018.
5. Said Monika Luthra, unfortunately, died on 14.04.2023.
6. Jyoti Behl (petitioner herein), being daughter of Monika Luthra (Judgment Debtor) has stepped into her shoes as her legal representative in the abovesaid Execution Petition.
7. When such Execution Petition was taken up by the learned Executing Court on 22.11.2024, she prayed for stay of the execution, contending that she had already filed a *Probate Petition* on the basis of the *Will* left behind by her mother and till such Probate Petition is decided, the Execution Petition may be put on hold.
8. Such request has been declined.
9. After hearing argument of Mr. Kansal, learned counsel for the petitioner and after going through the entire matter, this Court does not find any merit in the present petition.
10. Merely, because of the fact that a *Probate Petition* has been filed, the Execution cannot be stalled.
11. However, there is one aspect, which, indeed, is concerning.
12. While dealing with the abovesaid Execution Petition, the learned Executing Court has given some observations with respect to said *Will*.
13. During course of the arguments, one order dated 04.10.2024 has been shown to the Court and as per the abovesaid order, the Executing Court has rather given a *prima facie* observation that the *Will* in question i.e. *Will* dated 07.01.2023 left behind by Ms. Monika Luthra is not as per law and, therefore, cannot be relied upon. Such observations are, clearly, tentative in nature and cannot and would not prejudice the mind of the Probate Court.



14. With the abovesaid clarification, the present petition stands dismissed.
15. All the pending applications also stand disposed of.

(MANOJ JAIN)
JUDGE

APRIL 23, 2025/st/js