



2025:DHC:7984-DB



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

Date of decision: 09.09.2025

+ **FAO(OS) 61/2025, CM APPL. 30833/2025 (Dir.) & CM APPL. 30834/2025 (Stay)**

SH. JAY K. BHARDWAJ, ADVOCATEAppellant

Through: **Mr. Rajat Wadhwa, Mr. Harsh Prabhakar, Mr. Dhruv Chaudhary, Mr. Gurpreet Singh, Ms. Anshika Juneja and Ms. Saddhvi Nayak, Advocates.**

versus

DEV NARAIN PASWAN & ORS.Respondents

Through: **Ms. Amita Gupta, Mr. Sunil Verma and Mr. Aayush Gupta, Advocates for Respondent Nos. 3 to 6. Mr. Tushar Sannu and Ms. Aqsa, Advocates for GNCTD.**

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

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JUDGEMENT (ORAL)

ANIL KSHETARPAL, J.

1. The present Appeal has been filed under Section 10 of the Delhi High Court Act, 1966, read with Order XLIII Rule 1 of the Code of Civil Procedure, 1908.

2. Through this Appeal, the Appellant assails the correctness of the Order dated 15.05.2025 passed by Learned Single Judge of this



Court directing the Registrar General to lodge an FIR against the Appellant while directing the police to examine the role played by the Appellant's Counsel, Mr. Rahul Gupta, Mr. Ankur Arora as well as Mr. Ranjit Paswan. The operative part of the order reads as under:-

“15. In these facts, this Court is of the prima facie opinion that the Will dated 24.07.2012 is not a genuine document and an attempt has been made by the Petitioner along with its Advocate to mislead this Court to believe with respect to the existence of this original document.

16. In the facts of this case since the original Will has admittedly not been deposited with this Court, the act of forgery has not happened during custodia legis and therefore the bar under Section 215 (1)(b)(ii) of Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') is not attracted. Therefore, for this forgery committed outside the Court, a criminal complaint before the police is maintainable.

17. Accordingly, the Registrar General of this Court is directed to lodge an FIR through the concerned Police Station under appropriate provisions of Bhartiya Nyaya Sanhita, 2023 ('BNS') including under Section 318(2), 336, 338, 340(1), 340(2) of BNS and any other Section, which the Registrar General finds appropriate against the Petitioner. In this complaint the police will specifically examine the role played by Mr. Jay Bhardwaj, Advocate; Mr. Rahul Gupta and Mr. Ankur Arora as well as Mr. Ranjeet Paswan. The Registrar General is directed to take steps forthwith.”

3. The subject property was originally owned by Late Mrs. Purnima Bhattacharya, wife of Late Mr. Deb Das Bhattacharya [“**Testator**”]. Mr. Dev Narain Paswan, the care taker of the testator, filed a petition for grant of letter of probate on the basis of unregistered Will dated 24.07.2012. A copy of the said Will was produced. Subsequently, directions were issued by the Registrar on 24.01.2025 to produce the original Will which was not produced on 13.02.2025.

4. Mr. Dev Narain Paswan and his son were examined and the learned Single Judge recorded the following Order on 13.02.2025:-



“1. Mr. Jay K. Bhardwaj, who was appearing for petitioner previously, states that he seeks discharge in the matter. Accordingly, the said counsel is discharged.

2. Directions have already been passed previously by the Joint Registrar (Judicial), and by this Court *vide* order dated 04th November 2024, for production of the Original Will which has been propounded as part of this Probate Petition, and placing the same in a sealed cover in the presence of respondent nos. 3-4, after offering them inspection.

3. It is noted by the Joint Registrar (Judicial) on 24th January 2025 that the Original Will has still not been produced by the petitioner.

4. Mr. Ranjeet Paswan along with his father, Sh. Dev Narain Paswan, is present in the Court, and states that Testatrix had provided them a copy of the Will, which she had executed but, they do not have the original of the same. A copy of Will had been given to them by counsel, based on which the petition has been filed.

5. He states that they shall engage a new counsel in order to represent them.

6. In the event, petitioner is unable to afford a new counsel, he shall be at liberty to approach the Delhi High Court Legal Services Committee, and a counsel from Legal Aid Cell shall be appointed for them.

7. Petitioner was *caretaker* of the Testatrix and had served her for about 35 to 40 years. Respondent No.2-3 are *Class II* heirs of the deceased, who are residents of *Madhya Pradesh*. There are no *Class I* legal heirs of the Testatrix.

8. List before the Joint Registrar (Judicial) on 25.03.2025.

9. Order be uploaded on the website of this Court.”

5. Thereafter on 15.05.2025, the learned Single Judge proceeded to form the aforesaid *prima facie* opinion.

6. It is evident that such observations have been recorded without granting any opportunity either to the Appellant or his counsel to lead evidence. The learned Single Judge itself has observed that there was no forgery within the precincts of the Court.

7. It would have been more appropriate for the learned Single Judge to grant liberty to the parties to file a police complaint before the police or a criminal complaint in the appropriate Court. The probate proceedings are pending before the Learned Single Judge.



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8. Consequently, the Order directing Registrar General to lodge FIR as well as *prima facie* opinion to the effect that the Will dated 24.07.2012 is not a genuine document, are set aside.

9. Needless to observe, this Court has not returned any finding on the merits of the case, and the learned Single Judge shall proceed to decide the matter uninfluenced with the observations of this Court.

10. Consequently, the Appeal is allowed and the Impugned Order is set aside.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 09, 2025/nd/kr/rn