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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 387/2025, CM APPL. 36053/2025, CM APPL. 36054/2025, CM APPL. 36055/2025 & CM APPL. 36056/2025

ANKUR ARORA & ANR.Appellants
Through: Mr. Rajat Wadhwa, Mr. Shivam Rathour, Mr. Gurpreet Singh, Mr. Manish Kumar, Advocates.
versus

THE GOVERNMENT OF NCT OF DELHI & ORS.Respondents
Through: Ms. Harshita Nathrani, Advocate for Ms. Vaishali Gupta, Panel Counsel for GNCTD.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

% **ORDER**
02.06.2025

CM APPL. 36056/2025 (for exemption)

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of accordingly.

LPA 387/2025 and CM APPL. 36055/2025 (for stay)

3. This appeal has been filed under Clause 10 of the Letter Patent against the order dated 15.05.2025 passed by the learned Single Judge in TEST.CAS. 24/2023 captioned as *Dev Narain Paswan vs. The State of NCT of Delhi And Anr.*
4. Issue notice.
5. Ms. Harshita Nathrani, learned counsel accepts notice on behalf of the



State.

6. Learned counsel appearing on behalf of the appellants submits that by way of the impugned order, particularly, in Paragraph 7, the learned Single Judge has observed as under:

“7. The present petition has been filed seeking probate of the alleged unregistered Will dated 24.07.2012 executed by the Testatrix (i.e., Smt. Purnima Bhattacharya) bequeathing her immovable estate in favour of the Petitioner, who is stated to be her caretaker residing in the property. The Testatrix died on 03.11.2022 and thereafter, the Petitioner herein has allegedly entered into an Agreement to Sell for the said property with two property dealers Sh. Rahul Gupta and Sh. Ankur Arora; and has accepted advance from the said dealers; and in this background, the petition has been filed for seeking probate. It is stated that one of the attesting witnesses Sh. Rajendra is untraceable.”

7. Mr. Rajat Wadhwa, learned counsel appearing for the appellants submits that admittedly, the appellants before this Court were not parties to the TEST. CAS., therefore, passing an order which is apparently drastic in nature, without at least hearing the appellants, would not be appropriate. Learned counsel also refers to the order dated 13.02.2025, particularly to paragraph 4, to submit that the issue of whether the original Will which is the subject matter of the TEST. CAS. was available or not, is no more in doubt. According to learned counsel, the Petitioners in the TEST. CAS., themselves admitted that they do not have the originals with them and that the TEST. CAS. was based on the copy of the Will which was handed over by them to their counsel. This was noted in the order dated 13.02.2025 passed in the same TEST. CAS. In that eventuality, learned counsel states that the learned Single Judge ought to have considered order dated 13.02.2025 before doubting the credibility of the appellants.



8. We have heard Mr. Wadhwa, learned counsel for the appellants and also considered the order dated 19.05.2025, passed by a Co-ordinate Bench in FAO(OS) 61/2025 captioned **Sh. Jay K. Bhardwaj, Advocate vs. Dev Narain Paswan & Ors.**, wherein the order impugned herein, was impugned therein too. The Co-ordinate Bench, in that case, was considering the appeal filed on behalf of the learned counsel, who was appearing for the petitioners in the TEST. CAS. as noted above and had passed interim directions as in the nature contained in Para 7, which reads thus:

‘7. In the meantime, the direction of the learned Single Judge only insofar as the investigation of the appellant by the police is concerned, shall remain stayed, till the next date of hearing. We clarify that there is no stay on the registration of the FIR or further investigation in the same against others, as directed by the learned Single Judge in the impugned order.’

9. It has been fairly admitted by the learned counsel for the appellants that no criminal action has yet been commenced by the Police Authorities under the impugned order nor any FIR has been registered against the appellants yet.

10. After hearing the arguments and after perusing the orders dated 13.02.2025 [in TEST. CAS. 24/2023] as well as 19.05.2025 in [FAO(OS) 61/2025] passed by the learned Single Judge and the learned Co-ordinate Bench, respectively, we are of the opinion that since the appellants were not parties before the learned Single Judge, they would have obviously not been granted any opportunity for giving a clarification in respect of whether the Will in question is forged or not and such opportunity may be desirable.

11. In that view of the matter, we grant liberty to the appellants to file an appropriate application along with all relevant documents for consideration



by the learned Single Judge in the TEST. CAS. 24/2023, with a request to consider the application on its own merits.

12. The observations made hereinabove shall not tantamount to an expression on merits. The parties are at liberty to take all relevant objections, or prefer any application, as deemed appropriate, in this regard. The rights and contentions of the parties are left open.

13. The appeal is disposed of along with all the pending applications.

TUSHAR RAO GEDELA, J
(VACATION JUDGE)

HARISH VAIDYANATHAN SHANKAR, J
(VACATION JUDGE)

JUNE 2, 2025

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