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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) 94/2024 & CM APPL. 53784/2024**
MRS SANGEETA MULWANI & ANR.Appellants
Through: **Mr.F.K. Jha, Mr. Gaurav Jha,**
Mr.Tarun Verma, Advs.

versus

MRS KAVITA KESWANIRespondent
Through: **Mr.D.Moitra, Mr.Parnav Gupta,**
Mr.Siddarth Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

ORDER

% **15.05.2025**

1. This appeal has been filed, challenging the Judgment dated 13.05.2024 passed by the learned Single Judge of this Court in I.A. No.3989/2023 in CS (OS) No.220/2018, titled ***Mrs. Sangeeta Mulwani & Anr. vs. Mrs. Kavita Keswani***, rejecting the prayer 'i' of the appellants in the Suit, holding therein that the prayer of declaration of the Will dated 19.11.2005 as valid, legal and genuine can only be determined in the form of a Probate petition filed under Section 272 of the Indian Succession Act, 1925 (in short, 'the Succession Act') or a Letter of Administration of the claim under Section 278 of the Succession Act, 1925.

2. The learned counsel for the appellants, placing reliance on the Judgment of the Supreme Court in ***Kanta Yadav vs. Om Prakash Yadav***, (2020) 14 SCC 102, submits that in Delhi, applying for

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probate, in view of Section 57 read with Section 213 (2) of the Succession Act, is not compulsory for a relief to be claimed on the basis of a Will.

3. We find force in the submission. The learned counsel for the respondent also does not oppose this appeal.

4. Accordingly, the Impugned Order dated 13.05.2024 is set aside. Prayer 'i' is restored in the Suit. All objections of the respondent against the Suit, including the maintainability and the reliance on the alleged subsequent Will dated 10.12.2016, shall remain open to be adjudicated before the learned Single Judge in accordance with the law.

5. The appeal and the pending application are disposed of in the above terms.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MAY 15, 2025/Arya/IK

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