



\$~55

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

+ **C.R.P. 247/2025, CM APPL.53935/2025**

JASBIR SINGH & ANR.

.....Petitioners

Through: Mr. Amandeep Maini, Adv.

versus

NCT OF DELHI & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

10.10.2025

%

1. This Court had on 09.10.2025, after examining the matter briefly, passed the following directions:-

“4. The present Petition under Section 115 of the Code of Civil Procedure, 1908 [hereinafter referred to as ‘CPC’] seeks to challenge an Order dated 11.02.2025 passed by the learned Trial Court [hereinafter referred to as the ‘Impugned Order’]. By the Impugned Order, an application under Order VII Rule 11 of CPC filed by the Petitioners/Respondent Nos. 2 and 3 has been dismissed.

5. The Impugned Order has been passed in a Petition for grant of Probate filed under Section 276 of the Indian Succession Act, 1925 being PC No. 49/2022.

6. The learned Counsel for Petitioner No. 2 submits that he had filed an Application under Order VII Rule 11 of CPC stating that the cause of action to file the Petition arose on two dates first on 26.12.2007, when the registered Will was executed, and secondly on 16.11.2008, when the executee of the Will passed away. He further submits that the Petition has been filed in the year 2022 is thus barred by limitation since in terms of Article 137 of the Schedule to the Limitation Act, the limitation for filing a Probate Petition is three years.

7. Learned Trial Court examined the contention of the Petitioner and



relying on the Judgement of the Supreme Court in ***Kunvarjeet Singh Khandpur v. Kirandeep Kaur & Ors.*** held that the cause of action did not arise on the date of death of the testator but when a dispute with respect to the Will arose.

7.1 Learned Trial Court further held that usually limitation is the mixed question of the fact and law, and thus this issue cannot be decided in an Application under Order VII Rule 11 of CPC.

8. Learned Counsel appearing on behalf of the Petitioner No.2 requests for an adjournment to make his submissions.”

2. After some arguments, the learned Counsel for the Petitioner today seeks and is granted permission to withdraw the present Petition with liberty to agitate his contentions in defence before the learned Trial Court during the Trial Court.

3. It is however clarified that the Court has not expressed any opinion on the merits of the controversy. The rights and contentions of all parties are left open.

4. The present Petition is accordingly dismissed as withdrawn with the liberty as prayed for. All pending Applications stand closed.

5. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

OCTOBER 10, 2025/SU/sr