



\$~32

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

+ **FAO 231/2022 and CM APPL. 38882/2022**

SNEH LATA @ SNEH KUMARAppellant

Through: Mr.MK Sharma, Mr.Abhinav Sharma
and Mr.Abhishek C., Advocates

versus

THE STATE & ORS.Respondents

Through: Mr.Rajesh Kajla and Mr.Aakash,
Advocates for respondent Nos.2 and 3

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

18.03.2026

%

1. By way of the present appeal filed under Order XLIII Rule 1 of the Code Of Civil Procedure, 1908(hereinafter referred to as 'CPC'), the appellant seeks to assail the order dated 25.05.2022 passed by the learned Additional District Judge-01(SE), Saket Courts, New Delhi whereby an application filed by the appellant under Order IX Rule 9 read with Section 151 CPC, seeking restoration of petition, was dismissed.

2. Learned counsel for the appellant submits that the appellant has preferred the underlying probate petition, which was at the stage of evidence. It is submitted that the appellant was diligent and was regularly appearing in the proceedings, however, on 10.10.2019, although she was present in the Court premises and awaiting her counsel outside the Court, when the matter was called and dismissed in default. It is further submitted that the *bona fides* of the appellant are also reflected from the fact that, on the very next date, i.e., 11.10.2019, the subject application under Order IX Rule 9 read with Section 151 CPC came to be filed. It is also submitted that



there has been no prior default on the part of the appellant.

3. Learned counsel for the appellant submits that the appellant assures that no further adjournment would be sought and all witnesses will be examined without any delay.

4. Learned counsel for respondent Nos. 2 and 3, on the other hand, has opposed the prayer and submits that the order dated 10.10.2019 would show that even on an earlier date, i.e., 24.07.2018, the appellant was cautioned and last opportunity was granted to summon witnesses.

5. The daily proceeding sheets of the learned trial court have been placed on record which would reflect that on 21.02.2019, the Court heard arguments on application under Order XII Rule 6 CPC and the matter was listed for clarification. Thereafter, the matter was renotified for clarification on three dates, and the said application came to be disposed of on 06.08.2019. The matter was renotified on 10.10.2019, when the appellant claims that she was standing outside the Court premises and awaiting her counsel when the impugned order came to be passed.

6. Considering the aforesaid facts and the assurance given on behalf of the appellant, the orders dated 10.10.2019 as well as 25.05.2022 are set aside. The probate case is restored to its original position and be listed at the first instance before the concerned Court on 30.03.2026.

7. In view of the above, the present petition is disposed of alongwith the pending application.

MANOJ KUMAR OHRI, J

MARCH 18, 2026

na