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

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Date of decision: 27th January, 2026+ **W.P.(C) 8125/2024****PRANEET SINGH DAVAR & ORS.**

.....Petitioners

Through: Mr. Akshay Makhija, Senior
Advocate with Ms. Roshni
Namboodiry, Advocate.

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Ms. Sunieta Ojha & Ms. Vasudha
Priyancha, Advocates.**CORAM:****HON'BLE MR. JUSTICE AMIT BANSAL****AMIT BANSAL, J. (Oral)**

1. The present writ petition has been filed seeking a direction to the respondent/Municipal Corporation of Delhi ('MCD') to mutate/transfer the property situated at *A-1, Greater Kailash 1, New Delhi* (hereinafter the 'subject property'), in the names of the petitioners.
2. It is the case of the petitioners that the aforesaid property came to the share of the petitioners in terms of a family settlement. Based on the aforesaid family settlement, a decree was passed by this Court on 12th November, 2020 in CS (OS) 2540/2015, titled "*M/s L.S. Davar & Company & Ors. v. Praneet Singh Davar*".
3. The Registry of this Court did not demand stamp duty at the time of preparation of the decree. Subsequently, on 5th April, 2021 the aforesaid



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decree was registered by the concerned Sub-Registrar without levying any stamp duty (*page nos. 30-33 of the documents filed along with the petition*).

4. On 21st January, 2021, the petitioners filed an application before the respondent/MCD seeking mutation of the property on the basis of the aforesaid decree.

5. The respondent/MCD raised an objection *vide* its communication dated 22nd March, 2021. The relevant extracts from the aforesaid letter with regard to the objection relating to the transfer duty and stamp duty is set out below:

“11. As per documents available property Purchased M/S L.S. Davar & Co. and by virtue of settlement said property stands transferred (sic) in Favour of Mr. Praneet Singh Davar; Bhavish Singh Davar & Master Ahaan Singh Davar. In case of such transfer of the property appropriate Regd. Transfer (sic) duty & Stamp Duty paid documents is required for mutation of said property .”

6. Mr. Makhija, Senior Counsel appearing on behalf of the petitioners submits that all remaining documents sought by the MCD including *challans* of property tax paid in respect of the subject property have been duly submitted.

7. Since the respondent/MCD failed to mutate the property in the name of the petitioners, the present petition has been filed.

8. It is the contention of the petitioners that no stamp duty is required to be paid as the property came to the share of the petitioners pursuant to the family settlement recorded in the decree passed by this Court.

9. In this regard, petitioners have placed reliance on the judgment of the Supreme Court in ***Kale v. Deputy Director of Consolidation***, (1976) 3 SCC 119, ***Nitin Jain v. Anuj Jain***, 2007 SCC OnLine Del 582 and ***Himani Walia***



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v. Hemant Walia, 2022 SCC Online Del 893.

10. In the counter-affidavit filed on behalf of the respondent/MCD, it is stated that the aforesaid property was always assessed in the name of the partnership firm ‘*L.S. Davar & Co.*’. The transfer of the subject property in the name of the petitioners would amount to creation of a new right in the property and hence, the petitioners would be liable to pay stamp duty/transfer duty.

11. I have heard counsel appearing on behalf of the parties.

12. To begin with, a reference may be made to the judgments relied upon by the petitioners. In **Kale** (supra), the Supreme Court laid down the essential elements of a family settlement. The relevant extracts from the said judgment are set out below:

“10. In other words to put the binding effect and the essentials of a family settlement in a concretised form, the matter may be reduced into the form of the following propositions:

“(1) The family settlement must be a bona fide one so as to resolve family disputes and rival claims by a fair and equitable division or allotment of properties between the various members of the family;

(2) The said settlement must be voluntary and should not be induced by fraud, coercion or undue influence;

(3) The family arrangement may be even oral in which case no registration is necessary;

(4) It is well settled that registration would be necessary only if the terms of the family arrangement are reduced into writing. Here also, a distinction should be made between a document containing the terms and recitals of a family arrangement made under the document and a mere memorandum prepared after the family arrangement had already been made either for the purpose of the record or for information of the court for making necessary mutation. In such a case the memorandum itself does not create or extinguish any rights in immovable properties and therefore does not fall within the mischief of Section 17(2) of the Registration Act and is, therefore, not compulsorily registrable;



(5) The members who may be parties to the family arrangement must have some antecedent title, claim or interest even a possible claim in the property which is acknowledged by the parties to the settlement. Even if one of the parties to the settlement has no title but under the arrangement the other party relinquishes all its claims or titles in favour of such a person and acknowledges him to be the sole owner, then the antecedent title must be assumed and the family arrangement will be upheld and the courts will find no difficulty in giving assent to the same;

(6) Even if bona fide disputes, present or possible, which may not involve legal claims are settled by a bona fide family arrangement which is fair and equitable the family arrangement is final and binding on the parties to the settlement.””

[Emphasis supplied]

13. In **Nitin Jain** (supra), the Division Bench of this Court was dealing with a case where the terms of family settlement were recorded in a settlement application and the Court passed a decree thereon. The Division Bench held that the aforesaid decree was not required to be stamped. The relevant paragraphs of the judgment in **Nitin Jain** (supra) are set out below:

“9. In view of the legal position explained above, it follows that a decree of partition is an instrument of partition and therefore is required to be stamped under Schedule 1 of Article 45 r/w Section 2(15) of the Stamp Act. However, an oral family settlement dividing or partitioning the property is not required to be stamped. Similarly, a memorandum recording an oral family settlement which has already taken place is not an instrument dividing or agreeing to divide property and is therefore not required to be stamped.

10. Relevant paragraphs of the application for compromise and the orders passed by the Court have been quoted above. In the application it is specifically stated that the parties had entered into an oral family settlement and had distributed movable and immovable properties. In fact it is further stated that the parties had already been put in possession of the respective portions and the possession had been taken over. The compromise application merely records the oral



family settlement to avoid any ambiguity. Therefore, in this case the Court was not required to pass any decree of partition but only declare the existing factual position on the date when the compromise application was filed, that the parties had entered into an oral family settlement and had partitioned and separated the properties amongst themselves. It was a decree of declaration that there exists an oral family settlement that was passed and no decree that amounts to an instrument of partition under Section 2(15) of the Stamp Act was passed. Thus, the objection raised by the Registry that the appellant and other co-owners must furnish valuation report and pay stamp duty is not correct and legally tenable. However, it is clarified that in case the appellant or any of the co-sharers want to have a decree of partition prepared by the Registry, they shall have to file valuation report and also pay stamp duty.”

[Emphasis supplied]

14. The aforesaid judgments in **Kale** (supra) and **Nitin Jain** (supra) have been followed by a Coordinate Bench of this Court in **Himani Walia** (supra). From a reading of the said judgments, it is clear that a family settlement is not required to be registered and the stamp duty is not required to be compulsorily paid, when an oral settlement has already been arrived at between the parties and the terms of settlement are written only for the purpose of information and record. Similarly, a decree passed on the basis of a compromise application recording the oral family settlement is not required to be stamped.

15. The petitioners claim title in the aforesaid property pursuant to a settlement decree passed by this Court in terms of a joint application filed under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 ('CPC') recording the terms of the family settlement. A reference may be made to the relevant extracts from the said application under Order XXIII Rule 3 of CPC:



"1. The present Application is being filed to record a family settlement / compromise arrived at between Mr. Gautam Singh Davar and his family members namely, his two children Ms. Joshita Davar Khemani (daughter) and Mr. Praneet Singh Davar (son). Ms. Joshita Davar Khemani has a son Master Jaysheel Khemani, who is a minor. Mr. Praneet Singh Davar has two sons, Mr. Bhavish Singh Davar and Master Ahaan Singh Davar, who is a minor, and they are necessary parties keeping in view the terms of settlement, recorded hereinafter."

5. Keeping in view the entire factual matrix relating to the aforementioned proceedings/litigation pending between the family members of Mr. Gautam Singh Davar and his firms/businesses including L.S. Davar & Co., all the family members mentioned hereinbefore have arrived at a comprehensive family settlement with regard to their movable and immovable assets and with regard to the business of the firm M/s L.S. Davar & Co. in particular, and also other businesses of Mr. G.S. Davar and/or Joshita Davar Khemani to the following effect:

- a. By way of settlement of all the disputes between the parties, and also keeping in view the claim of the two sons of Mr. Praneet Singh Davar in Testamentary Case No. 88/2019, filed by Mr. Bhavish Singh Davar and his brother Master Ahaan Singh Davar, all the parties agree as under:

- i. That M/s L.S. Davar & Co., and its partners, Mr. G.S. Davar and Ms. Joshita Davar Khemani have agreed to transfer all rights, title and interests in the property, A-1, Greater Kailash-I, New Delhi-110048, belonging to the said firm to Mr. Praneet Singh Davar and his two sons, Mr. Bhavish Singh Davar and Master Ahaan Singh Davar in the following manner:

Praneet Singh Davar – 50% share;

Bhavish Singh Davar – 25% share; and



Master Ahaan Singh Davar – 25% share, which shall be managed jointly by Praneet Singh Davar and Bhavish Singh Davar on his behalf, to protect and safeguard his rights in the said property, until he attains the age of 21. After Master Ahaan Singh Davar attains the age of 21 years, his undivided share of 25% in the said property shall vest in Ahaan Singh Davar. It is clarified that any arrangement / settlement *inter se* Praneet Singh Davar and his sons, Bhavish and Ahaan, shall have no concern or effect on this Settlement and on the rights of Mr. Gautam Singh Davar, Ms. Joshita Davar Khemani and L.S. Davar & Company.

- ii. The said property (Greater Kailash-I, New Delhi) is being accepted by Mr. Praneet Singh Davar and his two sons, in full and final settlement of their respective claims against the said firm, and against the property, 15/1, Rowland Road, Calcutta - 700020, respectively, which is the subject matter of the Testamentary Case No. 88/2019, mentioned above.

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- v. It is further clarified that the said two sons of Mr. Praneet Singh Davar have been given a share in the property, A-1, GK-I, New Delhi – 110048, in lieu of their claim against the other legal heirs of Mrs. Nira Davar on the basis of the 'Will' dated 15.02.2017, executed by their grandmother, the late Mrs. Nira Davar, and henceforth, they would have no claim under the said 'Will' dated 15.12.2017 of their grandmother in so far as property No. 15/1, Rowland Road, Calcutta – 700020 is concerned.



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16. The terms of the family settlement already arrived at between the parties are recorded in the said application. Based on the aforesaid application, the suit was decreed by this Court on 12th November, 2020. The relevant extracts from the decree are set out below:

This suit coming on this day for final disposal before this Court in the presence of counsel for the parties as aforesaid; and upon the parties having arrived at a settlement and having filed a joint application (I.A. No.10456/2020) under Order XXIII Rule 5 read with Section 15, read with Order XXXIIA CPC, marked as Exhibit - 'X'; it is ordered that a decree be and the same is hereby passed in terms of the aforesaid settlement application (I.A. No.10456/2020, Exhibit - 'X') (copy enclosed), which shall form part of the decree.

17. One of the contentions raised by the respondent/MCD is that the transfer of the subject property cannot be termed as family settlement since it is not between family members but between partnership firm on one part and the petitioners on the other.

18. To rebut this contention, the petitioners have placed on record the partnership deed dated 14th February, 2012 to show that the petitioner no.1, who is the father of petitioners no. 2 and 3, was a partner in the firm. As per the said partnership deed, the petitioner no.1, petitioner no.1's father and petitioner no.1's sister were the only partners in the firm.

19. From the facts and circumstances obtaining in the present petition, what emerges is that no new/fresh property rights have been created by way



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of the oral settlement arrived at between the family members. The petitioners have given up their rights in other properties to acquire rights in the subject property.

20. Ms. Ojha, counsel appearing on behalf of the respondent/MCD has placed reliance on Section 147 of the Delhi Municipal Corporation Act, 1957 ('DMC Act') to submit that MCD would be entitled to a levy of transfer duty on the aforesaid decree. She has placed reliance on the judgment dated 15th November, 2025, passed in W.P. (C) 128/2022, titled '*Sh. Gulzar Ahmed vs. North Delhi Municipal Corporation & Anr.*'

21. Even though, no objection in this regard has been taken in counter-affidavit, I proceed to examine the same.

22. A perusal of Section 147 of the DMC Act clearly demonstrates that transfer duty is payable only on certain types of instruments, namely sale of immovable property, exchange of immovable property, gift of immovable property, mortgage with possession, lease in perpetuity of immovable property and contract for transfer of immovable property.

23. A family settlement deed or even a court decree is not a part of the instruments which find a mention in Section 147 of the DMC Act.

24. The judgment cited by the respondent/MCD was in the context of a gift deed, which was not stamped or registered. Gift deed is clearly included in the instruments mentioned in Section 147 of the DMC Act. Hence, the aforesaid judgment would be of no assistance to the respondent/MCD.

25. In view of the discussion above, in my considered view, the respondent/MCD cannot insist on payment of transfer duty to carry out the mutation/transfer of the subject property in favour of the petitioners.

26. Accordingly, the writ petition is allowed and a writ of mandamus is



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issued to the respondent/MCD to transfer/mutate the subject property in the names of the petitioners without demanding payment of any transfer duty or stamp duty in respect of the same.

AMIT BANSAL, J

JANUARY 27, 2026
at

Corrected and uploaded on 31st January, 2026

Signature Not Verified

Signed By:DHARMENDER
SINGH
Signing Date:31.01.2026
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