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

+ CS(OS) 732/2023 & I.A. 22523/2023, I.A. 163/2024, I.A. 505/2024,
I.A. 1970/2024

KUSUM LATA AND ANR

.....Plaintiffs

Through: Mr. Gaurav Kumar Singh, Advocate.

versus

RAJIV GUPTA AND ORS

.....Defendants

Through: Ms. Kamlakshi Singh, Mr. Saundarya Singh, Ms. Divya Singh Chauhan and Mr. Pankaj Kumar Mishra, Advocates for D-1

Ms. Sakshi Raghav, Advocate for D-2 along with D-2.

Mr. Rajesh Aggarwal and Ms. Deeksha Aggarwal, Advocates for D-3, 4, 5, 7, 8 & 9.

Mr. Priyank Sharma, Mr. Pradeep Tara, Mr. S.R. Sharma, Ms. Pooja Anand and Mr. Vineet Dwivedi, Advocates for D-10.

Mr. Rajinder Mathur, Mr. Tarun Mathur & Mr. Akshat Singhal Advocates for D-11.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

25.02.2026

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1. The instant Suit has been filed for the following prayers:

“(a) declare on the basis of available Medical Records/Certificates of MAX, AIIMS & Dr. Ram Manohar Lohia Hospitals that Shri Man Mohan Gupta was suffering from Epilepsy and later diagnosed with



Alzheimers as far back as the year 2011;

(b) declare that Shri Man Mohan Gupta owing to his sufferance from Alzheimers was not competent to sign the Compromise Application dated 06.02.2012 filed in the RFA (OS) 43 of 2003, rendering it inadmissible, invalid, null and void;

(c) declare the Power of Attorney's favouring Shri Rajiv Gupta, dated 17.04.2012, 10.10.2012, respectively, owing to the fact of Man Mohan Gupta was suffering from Alzheimers as invalid, null and void, resultantly, all litigations conducted by Shri Rajiv Gupta including the SLP (C) Nos. 29258 of 2012, Review Petition No. 102 of 2013, SLP (C) Nos. 27233 of 2013, FAO (OS) No. 327 of 2014 becomes inadmissible in law and a complete nullity;

(d) declare that the final Decreetal Order dated 15.05.2015 passed in CS (OS) No. 2897 of 1996 against Shri Man Mohan Gupta because of his medical condition owing to Alzheimers could not have been passed until the appointment of a Guardian or Administrator to the Estate of Shri Man Mohan Gupta, through Court of Law, rendering the said Order dated 15.05.2015 a complete nullity;

(e) possession of the suit property bearing A-44, Inderpuri, Delhi, be given to the LR's/Plaintiffs, namely Smt. Kusum Lata (Wife) and Smt. Renu Gupta (Daughter) of Late Shri Man Mohan Gupta being legally entitled;



(e) Pass such other and further order(s) and/or directions as this Hon'ble Court may deem fit & proper in the facts and circumstances of the case.”

2. A reading of the Plaint indicates that the issues sought to be raised in the Plaint are matters which arise in the execution of the Decree dated 15.05.2015 passed by a Coordinate Bench of this Court in CS (OS) No. 2897/1996. Admittedly, the Decree has been affirmed in appeal. Moreover, material on record indicates that several questions answered at the execution stage have also attained finality.

3. Learned Counsel for the Defendants has raised a preliminary objection, stating that the Suit is barred under Section 47 of the Code of Civil Procedure, 1908 [**“CPC”**], read with Order XXI Rule 101 of the CPC, and as such, is not maintainable.

4. Section 47 of the CPC reads as under:

“47. Questions to be determined by the Court executing decree.—(1) All questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit.

(3) Where a question arises as to whether any person is or is not the representative of a party, such question shall, for the purposes of this section, be determined by the Court.

[Explanation I.—For the purposes of this section, a plaintiff whose suit has been dismissed and a defendant against whom a suit has been dismissed are parties to the suit.



Explanation II.—

(a) For the purposes of this section, a purchaser of property at a sale in execution of a decree shall be deemed to be a party to the suit in which the decree is passed; and

(b) all questions relating to the delivery of possession of such property to such purchaser or his representative shall be deemed to be questions relating to the execution, discharge or satisfaction of the decree within the meaning of this section.”

5. Rule 101 of Order XXI of the CPC reads as under:

“101. Question to be determined.—*All questions (including questions relating to right, title or interest in the property) arising between the parties to a proceeding on an application under rule 97 or rule 99 or their representatives, and relevant to the adjudication of the application, shall be determined by the Court dealing with the application and not by a separate suit and for this purpose, the Court shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be deemed to have jurisdiction to decide such questions.”*

6. Confronted with the aforesaid position, learned Counsel for the Plaintiffs seeks permission to withdraw the present Suit with liberty to take such steps as permissible under the law.

7. Permission and liberty, as prayed for, is granted.

8. The Suit is disposed of as withdrawn under Order XXIII Rule 1(3)(b)



of the CPC.

9. Pending application(s), if any, also stand disposed of.

SUBRAMONIUM PRASAD, J

FEBRUARY 25, 2026

Prateek