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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **FAO(OS) 12/2024, CM APPL. 4571/2024**

**RAJIVE SAWHNEY (DECEASED) THROUGH LRS & ANR.**

.....Appellants

Through: Mr. Viraj R. Datar, Sr.  
Advocate with Mr. Imran  
Moulaye, Adv.

versus

**DEVIKA MEHRA**

.....Respondent

Through: Mr. Rajat Aneja, Mr. Anant  
Chaitanya Dutta, Mr. Rishabh  
Mishra and Mr. Karan Deep  
Singh, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE VIVEK CHAUDHARY**

**HON'BLE MS. JUSTICE RENU BHATNAGAR**

**ORDER**

% **09.02.2026**

1. The present appeal has been filed challenging the Order dated 28.11.2023 passed by the learned Single Judge in CS(OS) 212/20218 where by the application filed by the appellant under Order XIV Rule 5 of the Code of Civil Procedure, 1908 seeking reframing of the issues in the above-mentioned suit, was dismissed.

2. The sole grievance urged by the Appellants before this Court is with respect to the placement of onus of proof upon them under the relevant issue, despite certain alleged admissions made by the Respondent in prior proceedings.

3. It is a settled principle that where averments made by the plaintiff in the plaint are specifically denied by the defendant in the written statement, the initial burden to establish such issues necessarily lies upon the plaintiff.



4. Equally well-settled is the principle that admissions, once duly proved and brought on record, operate to shift the onus upon the party against whom such admissions are relied upon, requiring an explanation thereof. The burden of proof under the law is not static; it is dynamic and shifts in accordance with the evidence led by the parties.

5. Once a party discharges its burden in proving a particular fact, the onus correspondingly shifts upon the other side to rebut or disprove the same and such. Merely because the initial burden in respect of certain issues rests upon the plaintiff does not render the burden immutable throughout. In view of this settled legal position, we do not find the present case to be one warranting interference at this stage.

6. Accordingly, having regard to the facts and circumstances of the case, and without expressing any opinion on the maintainability of the present appeal, the appeal along with the pending application(s) stands disposed of in the aforesaid terms.

7. Needless to clarify, it shall remain open to the Appellants to move an appropriate application before the learned Trial Court, should they so desire, for consideration of the issue of limitation as a preliminary issue, which shall decide the said application in accordance with law.

**VIVEK CHAUDHARY, J**

**RENU BHATNAGAR, J**

**FEBRUARY 9, 2026/p/my**