

IN THE COURT OF SH. SHIV KUMAR
DISTRICT JUDGE-02
WEST, DELHI.

P.C. No. 34/2020

Uma Khanna

....Petitioner

Versus

State & Ors.

...Respondents

Order on application for review of orders dated 01.12.2025 and 09.12.2025, filed on behalf of Mrs Swati Saxena/proposed respondent.

1. Vide this order, I shall the decide the abovesaid application filed by Mrs Swati Saxena/proposed respondent.
2. It is averred in the application that the applicant is constrained to move the present application seeking review of apart of the orders dated 01.12.2025 and 09.12.2025 wherein this court has directed the Joint Sub-Registrar in Punjabi Bagh not to transfer the title of the suit property i.e. B-1/263, Paschim Vihar, New Delhi till next date, in the name of any person.
3. It is further averred in the application that it is relevant to note that the proposed respondent appeared through counsel on 01.12.2025 pursuant to a notice of this court. It is further averred that

it was brought to the attention of the court that copy of the application has not been supplied to the proposed respondent and pursuant to the directions of the court, the counsel for the petitioner supplied copies of two applications i.e. (1) for putting up the file for hearing; (2) for impleadment of the proposed respondent.

4. It is further averred in the application that preliminary arguments were addressed on the application for impleadment wherein it was informed to the court that the petition is not maintainable and counsel for the proposed respondent sought time to file a reply to the said application. Simultaneously, the counsel for the petitioner pressed for a stay qua the respondent no. 1 for the said property, however, in view of the request of the counsel of the proposed respondent wherein time was sought to file reply, the Hon'ble court was pleaded to grant a short date of 09.12.2025 for consideration.

5. It is further averred that the proposed respondent filed a detailed reply on 09.12.2025, wherein inter alia, the following was pointed out:

(i) Respondent no. 2 has passed away on 01.02.2024 and the said fact has been brought to the attention of the petitioner since 13.03.2024 and no application for substitution of legal heirs has been moved.

(ii) On 13.03.2024, this Hon'ble Court categorically refused to grant a stay on the property qua the respondent no.

1 without the substitution of the legal representative of the respondent no. 2

(iii) On 09.08.2024, this Hon'ble Court was pleaded to record that the proceedings stand abated qua respondent no. 2.

(iv) The matter has thereafter been listed for arguments on maintainability wherein the counsel for the petitioner has been seeking adjournments and/or not appearing in the matter. The matter was last listed on 17.10.2025 wherein it was adjourned to 23.01.2026, recording that last opportunity is given to the petitioner to make arguments in terms of order dated 09.08.2024.

(v) It was also categorically stated that whilst the counsel for the petitioner repeated sought interim protection qua the property, however, no such application has been filed by the petitioner seeking stay qua the property

6. It is further averred in the review application that in this backdrop, detailed arguments were addressed on 09.12.2025, wherein the counsel for the petitioner again addressed arguments to press for stay qua the property. The counsel for the proposed respondent brought to the attention of the Hon'ble court that there is no application filed for stay qua the property and the petition, on account of abatement qua the respondent no. 2, is no longer maintainable and all other facts as stated above. The Hon'ble Court was pleased to reserve the application for impleadment after hearing arguments from both sides.

7. It is further averred that on 09.12.2025, the applicant has received a legal notice purportedly dated 04.12.2025 wherein she was shocked to receive a paragraph no. 3 wherein it was stated that this Hon'ble court vide order dated 01.12.2025 has granted stay qua the title of the property. It is further averred that the applicant's counsel inspected the court file on 10.12.2025 wherein it was discovered that the order dated 01.12.2025 records that alongwith an application for impleadment, an application under order 39 rule 1 & 2 was also filed and stay qua the property was granted. Moreover, this Hon'ble Court was pleased to extend the stay on 09.12.2025 till 06.01.2026.

8. It is further averred that upon inspection, it is also noted that the application for stay sought a restrain qua the proposed applicant, however, the petitioner intentionally did not provide a copy of the said application to the proposed respondent on 01.12.2025.

9. It is further averred that in view of the above, the applicant is constrained to move the present review application on the account of the following:

(i) The petitioner did not supply a copy of any interim injunction application to the proposed respondent on 01.12.2025.

(ii) This Hon'ble court has itself rejected the exact same relief on 11.03.2024 stating that it shall not grant any stay qua the respondent no. 1 until the legal representative of the respondent no. 2 are substituted. The grant of the same relief on 01.12.2025 is, therefore, violative of the principles of constructive res judicata;

(iii) This Hon'ble Court has been listing the matter for maintainability on account of the abatement of the respondent no. 2 and the main matter is now listed on 23.01.2026 to decide the issue of maintainability of the petition. It is settled law that when there is serious doubt with regard to maintainability, the court cannot consider and grant interim relief to the petitioner.

10. It is further averred that grant of interim relief on 01.12.2025 and its consequent extension on 09.12.2025 is therefore, an error apparent on the face of the record of this Hon'ble court.

11. It is further averred that the same is not only in violation of categorical judgments of the Hon'ble Supreme Court and Hon'ble High Court but also violative of the previous orders of this Hon'ble court in the same matter. It is prayed that orders dated 01.12.2025 and 09.12.2025 may be reviewed and the direction of restrain passed qua the Joint Sub-Registrar, Punjabi Bagh, may be removed.

12. Reply to the present application has been filed on behalf of the petitioner by taking preliminary objections that the application filed by the proposed respondent is nothing else but sheer abuse of process of law and fraud upon this Hon'ble Court and the fraud on the part of the proposed respondent is being stated herein below.

13. The present probate petition is pending for disposal before this Hon'ble Court since 2020 and during the pendency of the present revocation proceedings, Smt. Swati Saxena had never come forward before this court for her impleadment as a party to the case in place

of Shri Akhil Saxena. It is further contended that it has already come on record that Shri Akhil Saxena had died on 01.02.2024 as was so disclosed by the counsel appearing for Shri Akhil Saxena. It is further contended that even Sh. Aakar Saxena, who is husband of Smt. Swati Saxena had not disclosed that any Will has been executed in favour of Smt. Swati Saxena.

14. It is further contended that in fact, the petitioner was under impression that Sh. Aakar Saxena is claiming to be the legal heir of Sh. Akhil Saxena. However, in response to the application moved by the petitioner for impleadment, Sh. Aakar Saxena has admitted that he has no concern , right, title or interest qua the property in question or the alleged Will alleged to have been executed by Dr. Rama Mehra in favour of Shri Akhil Saxena. But the strange is that in the reply, Shri Aakar Saxena has not disclosed that, in fact, there is already a Will in favour of his wife Smt. Swati Saxena, executed by Shri Akhil Saxena. It is further contended that it was also not the case of Shri Aakar Saxena that he is living separately from his wife and they are at draggers drawn or he is not aware of legal heirs of Shri Akhil Saxena. In fact, both i.e. Aakar Saxena and his wife Smt. Swati Saxena are residing together in the same premises, which is clear from the affidavits so filed by Shri Aakar Saxena and Smt. Swati Saxena. This leads to the conclusion that a bigger fraud has been committed upon this court by both Shri Aakar Saxena and Smt. Swati Saxena.

15. It is further contended that in fact, proceedings needs to be initiated against Sh. Aakar Saxena as he has abused and misused the process of law. After the death of Shri Akhil Saxena on 01.02.2024, Aakar Saxena was duty bound to disclose about the legal heirs of Shri Akhil Saxena. Obviously, if there was any Will alleged to have been executed by Sh. Akhil Saxena in favour of Smt. Swati Saxena, it was his/her duty to bring to the notice of this court about the same so that the Hon'ble court could have impleaded Smt. Swati Saxena as a party to the said proceedings and no abatement would have taken place rather further proceedings qua all these facts could have been in progress.

16. It is further contended that unfortunately, for about 2 years, no substantive proceedings could have happened only on account of the act and conduct on the part of Sh. Aakar Saxena as well as Smt. Swati Saxedna. If Swati Saxena was claiming any right in the property in question on behalf of Shri Akhil Saxena on the basis of alleged Will then certainly, she would have come forward before the court after the death of Shri Akhil Saxena to show that right and she cannot claim that she was not aware about the death of Shri Akhil Saxena or the proceedings before this Hon'ble Court. It is further averred that there is further fraud on the part of Smt. Swati Saxena as immediately after passing of the interim order by this court on 01.12.2025, she came running and sought review of the order dated 01.12.2025 and 09.12.2025.

17. It is further contended that on the application moved by the petitioner under order 1 rule 10 CPC, Shri Ankur Mahendru and Shri Roshan Taneja, Advocates, appeared on behalf of the proposed respondent, Smt. Swati Saxena and they have been allowed to file reply to the aforesaid two applications. The petitioner also requested the court that joint Sub-Registrar, Punjabi Bagh be restrained from transferring the title of the suit property. The Hon'ble court directed the joint Sub-Registrar not to transfer the title of the suit property i.e. B-1/263, Paschim Vihar, New Delhi, till the next date of hearing. It is further contended that the Hon'ble court has also recorded that as per the counsel for the petitioner, there is no legal heir of respondent no. 2 namely Sh. Akhil Saxena and the case was adjourned to 06.01.2026.

18. It is further contended that the aforesaid order clearly speaks that in the presence of and after hearing the counsel for the proposed respondent, order dated 01.12.2025 was passed and nothing was stated to the Hon'ble Court as to whether any document has been executed.

19. It is further contended that in fact, during this period, the petitioner came to know about the startling facts and therefore, the petitioner was constrained to move an application under order 1 rule 10 CPC for impleadment of Ms Aakriti Lal, non-applicant as a party to the present petition. The said application was taken up for hearing on 09.12.2025. On that date i.e. on 09.12.2025 also, Shri Ankur Mahendru and Shri Roshan Taneja, advocates had appeared as

counsel for the non-applicant and after hearing both the sides qua the aforesaid application, the Hon'ble court fixed the case for orders on 06.01.2026 and extended the interim order till the next date of hearing. It is after this also, the present application for review came to be moved on 12.12.2025. It is submitted that the application needs dismissal in every respect in view of the facts narrated earlier. None of the grounds of review has been pleaded or arises in the present application and as such the application under reply is bereft of any consideration and needs dismissal.

20. On merit some of the contents are stated to be matter of record and some of the contents are denied as wrong. It is submitted that the application under reply is highly misconceived and not tenable in the eyes of law and liable to be rejected.

21. Arguments heard. Case file perused. Today at 1:00 P.M, ld. counsel for the petitioner has filed certain copies of judgments passed by the Hon'ble Supreme Court of India as well as Hon'ble High Courts and the same have been duly considered while passing this order.

22. It is settled law that power under order 47 read with Section 114 CPC may be exercised on the following grounds:

1. Discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the petitioner or could not be produced by him.

2. Mistake or error apparent on the face of the record.

3. Any other sufficient reasons.

23. I have perused the order dated 13.03.2024, passed by this court. On 13.03.20024, ld. counsel for the petitioner had submitted that respondent no. 1 be restrained from making any entry or allowing execution of any transfer deed of the property in question till the next date of hearing and this court had held that at this stage this court is not inclined to pass any stay order without impleading the L.Rs of respondent no. 2.

24. On 01.12.2025, ld. counsel for the petitioner again requested the court to restrain respondent no. 1/Joint Sub-Registrar, Punjabi Bagh from transferring the title of the suit property and this court directed the Sub-Registrar, Punjabi Bagh not to transfer the title of the suit property in his register, in the name of any other person till next date of hearing i.e. 09.12.2025 and interim stay order was extended till 06.01.2026. Order dated 01.12.2025 and order dated 09.12.2025 were passed in the ignorance of order dated 13.03.2024. This court has already held that without impleading L.Rs of respondent no. 2, the court will not grant stay order against respondent no. 1. The order dated 13.03.2024 was not brought to the notice of court by any of the ld. counsels for the parties on 01.12.2025 and 09.12.2025. The L.Rs of respondent no. 2 have not still been impleaded, so there is apparent error in the order dated 01.12.2025 and 09.12.2025 for granting and extending interim stay order. Both above said orders have been passed in ignorance of the order dated

13.03.2024. Moreover, respondent no. 1 is a State and is a perform party and has no personal interest in the present petition. Sub-Registrar, Punjabi Bagh is not a party in the present petition. The petition has also been abated against respondent no. 2 vide order dated 09.08.2024 and the abatement order has not been set aside till date by the court. In view of the above said observations, both orders dated 01.12.2025 and 09.12.2025 are recalled and set aside to the extent of granting stay. It is made clear that passing of this order will have no effect on the final decision of application filed under order 39 rule 1 & 2 CPC.

25. Copy of this order be sent to Sub-Registrar, Punjabi Bagh for intimation that the stay order dated 09.12.2025 has been vacated and now there is no stay order in the present case.

26. The review application (IA 13/2026) stands allowed and disposed off accordingly.

**Announced in the open court
On 7th January, 2026**

**(SHIV KUMAR)
DJ-02, West Distt, THC
Delhi**