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

+ **CS(OS) 50/2025 with I.A. 2013/2025 & I.A. 2015/2025**

MR KHALEEL SYED REHMANPlaintiff

Through: Ms. Rashmi Chopra, Senior Advocate
with Mr. Omar Hoda and Ms. Esha
Bakshi, Advocates

versus

SYED HABEEB UR REHMAN
PRIVATE TRUST AND ORSDefendants

Through: Mr. Sanjeev Anand, Senior Advocate
with Mr. Rahav Anand and
Mr. Shubham Kathuria, Advocates for
D-1 to D-3
Mr. S. Wasim A. Qadri, Senior
Advocate with Mr. Saeed Qadri, Mr.
Mohd. Naveed Gayasuddin,
Advocates for D-5, D-8 and D-9
Mr. Muhammad Ali Khan,
Ms. Pragya, Mr. Surya Kiran and
Mr. Aviral Jain, Advocates for D-7

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

ORDER
16.10.2025

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I.A. 2015/2025 (seeking enlargement of time for filing of court fees)

1. Counsel for the plaintiff submits that the deficient court fees have been paid.
2. Accordingly, the application is disposed of infructuous.



CS(OS) 50/2025 and I.A. 2013/2025 (under Order XXXIX Rules 1 and 2 of the CPC)

3. The present suit *inter alia* seeks declaration with consequential relief of permanent injunction against the defendants.
4. In the order passed by the predecessor bench on 24th January, 2025, detailed submissions on behalf of counsel for the petitioner on the issue of the maintainability of the present suit have been recorded.
5. For the sake of convenience, the relevant extracts from the aforesaid order are set out below:

*“2. As per the facts narrated in the plaint, plaintiff is one of the siblings of Mr. Syed Habeeb-ur-Rehman (**‘deceased’**) who passed away on 16th December 2024 at Delhi. Plaintiff and defendant nos. 7 to 12 are the surviving siblings of the deceased. Plaintiff states that the deceased was earlier serving in the Indian Army; retired in 1979 and entered the hospitality industry. He joined ITC Pvt. Ltd. as Managing Director in 1994 and later as an Executive Director, whom he served for the next 12 years.*

3. The deceased married twice but no child was born out of either wedlock. From 2022, due to deteriorating health conditions of the deceased, Ms. Jasmine Saini (defendant no.2), an employee of ITC, took over the role of the deceased’s caretaker and started living with him along with her mother (defendant no.3). Plaintiff and other siblings were in various parts of the world and therefore, were not in touch with the deceased.

4. Plaintiff came to know that the deceased was admitted to the ICU in December 2024 and thereafter, having undergone treatment and attempting to recovery, he finally passed away on 16th December 2024. Plaintiff states that he was laid to rest in accordance with Islamic principles on 19th December 2024 in Hyderabad, Telangana.

8. Plaintiff claims that since the deceased was a practicing Muslim (Sunni Hanafi), his estate would be governed by Shariat Law, specifically Sunni Hanafi law of inheritance, as per which any bequest more than 1/3rd of estate to unrelated parties will be invalid. On this basis the suit has been filed to declare the plaintiff and defendant nos.7 to 12 as legal heirs under Shariat Law and declare the purported Will as invalid.



9. Counsel for defendant nos.1 to 3 and for defendant no.6 entered appearance and raised preliminary objection on the suit's maintainability. It was contended that the suit's basis is invalidity of the Will basis Shariat Law, however, the deceased married twice in his lifetime. The first marriage was with Late Smt. Sukhwant Singh on 7th November 1970, under Special Marriage Act, 1954 ('SMA'). Copy of certificate issued under Section 13, SMA was handed up in the Court. This certificate has been issued by the Registration Officer for Shimla District.

10. It was further stated that the deceased's second marriage was with Late Smt. Sahiba Rehman under the SMA. This is evident from para A (viii) of the registered Will, which the Court has perused.

11. It is, therefore, contended that the exclusion in the provisions of Indian Succession Act, 1925 ('ISA') relating to testamentary successions as per Section 58, are inapplicable since by a subsequent SMA, particularly Section 21, the said restriction is rendered inapplicable, if the person marries under SMA...

12. It was accordingly submitted that the suit itself cannot subsist."

6. Subsequently, pursuant to the liberty granted by this Court on 14th May, 2025, the plaintiff has placed on record the *Nikahnama* of the second marriage of the deceased Syed Habeeb Ur Rehman with Late Smt. Sahiba Rehman *alias* Manju.

7. I have heard submission on behalf of the parties.

8. At the outset, a reference may be made to Section 21 of the Special Marriage Act, 1954 (hereinafter 'SMA') on which reliance is being placed on behalf of the defendants no.1 to 3. Section 21 of the SMA is set out below:

"21. Succession to property of parties married under Act.—Notwithstanding any restrictions contained in the Indian Succession Act, 1925 (39 of 1925), with respect to its application to members of certain communities, succession to the property or any person whose marriage is solemnized under this Act and to the property of the issue of such marriage shall be regulated by the provisions of the said Act and for the purposes of this Act shall have effect as if Chapter III of Part V (Special Rules for Parsi Intestates) had been omitted therefrom."

[emphasis supplied]



9. Section 21 of the SMA provides that succession to a property of any person shall be governed by SMA if the marriage of the said person is solemnized under the SMA. It is a matter of record that first wife of the plaintiff with whom he had gotten married under the provisions of SMA expired in 2004 and they did not have any children from the said marriage. Therefore, on a *prima facie* view, there cannot be any succession to the properties of the deceased under the provisions of the SMA.

10. There is another aspect of the matter. The first marriage of the deceased under the SMA does not imply that he ceased to be a practising Muslim. Sufficient averments have been made in the plaint that the plaintiff continued to be a practicing Muslim till the time of his death. The *Nikahnama* with Late Smt. Sahiba Rehman also suggests that the second marriage of the deceased was as per *Shariat* Law.

11. In these facts and circumstances, in my *prima facie* view, it cannot be said that the present suit would not be maintainable.

12. Accordingly, issue summons in the suit and notice in the present application.

13. Summons are accepted by counsel appearing on behalf of the defendants no.1, 2, 3, 5, 7, 8 and 9, who waives issuance of formal summons. Let a copy of the complete set of the plaint paperbook be supplied to counsel for the aforesaid defendants by way of email during the course of the day.

14. Summons be issued to the remaining defendants through all permissible modes including email.

15. Written statement(s) to the suit and reply(ies) to the application shall be filed by the defendants no.1, 2, 3, 5, 7, 8 and 9 within thirty (30) days from today and by the remaining defendants within thirty (30) days from the date



of receipt of summons. Along with the written statement(s), the defendants shall also file affidavit(s) of admission/ denial of the documents of the plaintiff, without which the written statement(s) shall not be taken on record.

16. Liberty is given to the plaintiff to file replication(s), if any, within thirty (30) days from the receipt of the written statement(s). Along with the replication(s) filed by the plaintiff, affidavit(s) of admission/ denial of the documents of the defendants be filed by the plaintiff.

17. Rejoinder(s), if any, to the reply(ies) to the present application shall be filed within two (2) weeks after the receipt of such reply(ies).

18. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

19. The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document, which is not in their power and possession, its detail and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

20. Ms. Rashmi Chopra, senior counsel appearing on behalf of the plaintiff, submits that the Will dated 27th December 2022 in favour of persons not related to the deceased is shrouded with suspicious circumstances. The Will is against the principles of Muslim personal law, which bar bequeathing of more than one-third share in the estate of any person governed under the Muslim personal law without the consent of the legal heirs of the said person. She submits that more than 90% of the estate of the deceased has been primarily bequeathed in favour of the defendants no.1, 2, 4, 5, 6 and 7.

21. In light of facts narrated above, a *prima facie* case is made out on behalf of the plaintiff.



22. Balance of convenience also lies in favour of the plaintiff as it is necessary that the estate of the deceased be preserved.
23. Accordingly, *status quo* with regard to all movable and immovable assets of the deceased Syed Habeeb Ur Rehman shall be maintained till the next date of hearing.
24. List before the Joint Registrar on 16th December, 2025 for completion of service and pleadings.
25. List before the Court on 23rd March, 2026.

AMIT BANSAL, J

OCTOBER 16, 2025
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