



\$~61

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

+ **RFA 265/2026, CM APPL. 18097/2026**

RAJEEV JAIN & ANR.

.....Appellants

Through: Mr. Sunil Dalal, Sr. Advocate with
Mr. Rohit Priya Ranjan, Ms. Aayushi,
Ms. Shipra Bali and Mr. Ankit Rana,
Advocates

versus

GULSHAN KUMAR JAIN (SINCE DECEASED)

THROUGH LR DEEPAK JAIN

.....Respondent

Through: Mr. R.D. Sharma, Advocate

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **23.03.2026**

CM APPL. 18098/2026

1. Allowed, subject to all just exceptions.
2. The Application is disposed of.

RFA 265/2026, CM APPL. 18097/2026

3. Regular First Appeal under Section 96(1) of the Code of Civil Procedure, 1908 (CPC) has been filed against the judgment dated 29.01.2026 whereby the learned District Judge decreed the Suit for possession in favour of the Respondent/brother of the Appellants on the basis of Will in respect of which neither the issue was framed nor were there any pleadings.
4. It is explained that Suit originally was filed by the father against the Defendants/Appellants, but on demise, the other son/Respondent was impleaded, without there being any amendments to plead the Will. Without



there being any pleading or issue of genuineness of the Will, it could not have been determined. Even otherwise once the father died, the matter should have been abated.

5. The Appellants also being the legal heirs/sons of the father and the Respondent in fact, should have sought a Probate, before contesting the Suit for possession.

6. Moreover, it was an ancestral property originally owned by grandfather, as is evident from the NOC given by both the sons at the time of sale of ancestral property, the proceeds of which were utilised to purchase the Suit Property.

7. On advance Notice, learned Counsel for the Respondents has appeared.

8. The parties are directed to maintain the status quo *vis-a-vis* the title and possession of the Suit Property.

9. Learned Counsel for the Appellants submits that the Appellant shall continue to deposit Rs.14,500/- per month in the Court in terms of the Order of the learned District Judge.

10. Written Submissions be filed by both the parties within 08 weeks, failing which the same shall be accepted subject to cost of Rs.25,000/- to be deposited with the Delhi High Court Advocates' Welfare Fund.

11. E-Trial Court Record be summoned on or before the next date of hearing.

12. List on 30.09.2026.

NEENA BANSAL KRISHNA, J

MARCH 23, 2026

N