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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 1100/2025 & CM APPL. 37241/2025**

PARUL BAWA

.....Petitioner

Through: Mr. Satish Kumar, Advocate.

versus

MOHIT GANDHI

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

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01.07.2025

CM APPL. 37242/2025 (Exemption)

Exemption allowed, subject to all just exceptions.

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1. Petitioner is defending a suit for declaration.
2. Such suit for declaration has been filed by Mr. Mohit Gandhi in which he seeks declaration to the effect that his father Mr. Ram Saran Dass, who has not been heard for more than 7 years, be declared presumed dead.
3. During the pendency of such suit (Civil Suit No. 224/2020), defendant Ms. Parul Bawa moved an application that, earlier also, the same plaintiff had filed a suit seeking similar declaration and since such suit has already been dismissed and such order had attained finality, the present suit was hit by *res judicata*.
4. However, the learned Trial Court *vide* order dated 20.03.2025 has dismissed his such application moved under Section 11 CPC.
5. Such order is under challenge.
6. Learned counsel for petitioner/defendant No.3 draws the attention of the Court towards judgment dated 30.05.2013 passed by learned Trial Court

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in Civil Suit No.290/2011 wherein also a similar issue had been framed to the effect that the plaintiff was entitled to a decree of declaration as prayed for and such suit was dismissed.

7. It seems that the abovesaid suit was dismissed for the reason that there was no evidence from those who would have naturally heard about him, had he been alive and, therefore, relief for declaration was denied.

8. The plaintiff challenged the abovesaid order by filing an appeal but his such appeal was also dismissed on 19.05.2014 and it is submitted that such order had thus attained finality and, therefore, the new suit is clearly hit by the principles of *res judicata*.

9. The impugned order would indicate that the learned Trial Court has dismissed the application holding that it was a mixed question of fact and law for which the Court would be required to examine the evidence adduced by the parties.

10. During course of the arguments, learned counsel for petitioner submitted that plaintiff-Mr. Mohit Gandhi had played a fraud as when the earlier suit was filed, he had shown himself as well as his sister (petitioner herein) as plaintiffs whereas the petitioner herein had never given any such consent to file any such suit or, for that matter, the appeal.

11. None appears on behalf of the respondent despite advance notice.

12. Issue notice to the respondent through all permissible modes, returnable on 01.08.2025.

13. Be shown in Supplementary List.

MANOJ JAIN, J

JULY 1, 2025/ss/SS

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