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

+ **C.R.P. 9/2024 & CM APPL. 958/2024**

ANITA CHAUDHARY & ORS.Petitioners

Through: Mr. Varun Goswami,
Mr. Naveen Grover and
Mr. Maryam Junaid, Advs.

versus

RENU & ORS.Respondents

Through: Counsel (Appearance not
given)

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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20.02.2025

1. The learned counsel for the petitioners submits that the suit is filed by the wife and children of Mr. Dalbir Singh Panwar (Defendant No.1) seeking declaration of nullity of documents executed by him. He submits that the suit filed by the plaintiffs is not maintainable when Defendant No.1 is alive.
2. He submits that Defendant No. 1 had executed the alleged Gift Deeds in favour of the petitioners, who are his sisters, and the suit for declaration seeking nullity of the said documents could have only been filed by a person having a right or interest in the property.
3. He submits that the wife and children of the executor do not have any right in the property so as to entitle them to any decree.
4. He vehemently contends that the suit was also not filed on behalf of Defendant No.1 claiming that he has lost his mental capacity and he is of unsound mind. He submits that no



application under Order XXV of the Code of Civil Procedure, 1908 ('CPC') was filed along with the suit and the suit was instituted in the name of the wife and children of Mr. Dalbir Singh Panwar, who was in fact arrayed as Defendant No. 1 in the suit.

5. The learned counsel for the respondents submits that the said issue was not raised before the learned Trial Court and ought not to be adjudicated by this Court while exercising powers under Section 115 of the CPC.

6. The learned counsel for the petitioners, however, submits that the said issue was raised during the course of arguments before the learned Trial Court. He submits that the learned Trial Court, in the impugned order, has taken note of the judgement, which was relied upon by the petitioners in support of the said argument.

7. He seeks time to place on record the written submissions filed by the petitioners before the learned Trial Court.

8. Let the same be done before the next date of hearing.

9. List on 24.03.2025.

AMIT MAHAJAN, J

FEBRUARY 20, 2025

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