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

+ **CM(M) 1967/2025**

ANIL GUPTA

.....Petitioner

Through: Mr. S.C. Singhal, Advocate.

versus

POONAM CHAND (SINCE DECEASED) THR LRSRespondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

% **10.10.2025**

CM APPL. 63545/2025 (exemption)

1. Allowed, subject to all just exceptions.

CM(M) 1967/2025 & CM APPL. 63546/2025 (stay)

2. The petitioner has assailed order dated 03.07.2025 passed by the learned trial court, whereby application of two brothers namely Mudit and Vidit was allowed and the plaintiff was substituted by them under Order XXII Rule 3 CPC.

3. It appears that the plaintiff, Mr. Poonam Chand passed away leaving behind his daughter, Ms. Pushpa Gupta as the only Class-I legal heir. Defendant to the suit (*petitioner herein*) is husband of Ms. Pushpa Gupta. That being so, the learned trial court took a view that since interest of Ms. Pushpa Gupta is adverse to the interest of the now deceased plaintiff, she could not be allowed to substitute the deceased plaintiff, Mr. Poonam Chand. So, application of Ms. Pushpa Gupta under Order XXII Rule 3 CPC was dismissed. But that is not under challenge in these proceedings.

4. What is under challenge is that Mudit and Vidit being grandsons of



real brother of Mr. Poonam Chand filed an application under Order XXII Rule 3 CPC, which was allowed and the plaintiff, Mr. Poonam Chand was substituted by them. Mudit and Vidit claimed their rights to be substituted in the place of plaintiff on the basis of a Gift Deed allegedly executed by the deceased plaintiff, Mr. Poonam Chand on 02.05.2019.

5. Learned counsel for petitioner/defendant contends that the impugned order is not sustainable because assuming the validity of the Gift Deed dated 02.05.2019 would mean that by the time Mr. Poonam Chand passed away on 31.10.2019, he was left with no interest in the subject property, to be succeeded by Mudit and Vidit. Therefore, according to learned counsel for petitioner/defendant, the application under Order XXII Rule 3 CPC was wrongly allowed. In response to a specific query as to whether Mudit and Vidit cannot be impleaded as parties to the suit under Order I Rule 10 CPC, it is contended by learned counsel that they did not move any application under Order I Rule 10 CPC and even otherwise they would have to first file a separate suit for declaration of validity of the Gift Deed.

6. Considering the above circumstances, further proceedings before the trial court are stayed till next date.

7. Subject to petitioner taking steps within one week, notice through all modes be issued to respondent, returnable on 28.01.2026 before Registrar.

GIRISH KATHPALIA, J

OCTOBER 10, 2025/ry