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

+ **FAO(OS) 140/2025, CM APPL. 71196/2025 (stay)**

SHIVAM KAUSHALAppellant
Through: Mr. Rahul Kadyan, Advocate.

versus

INDRA KAUSHAL & ORS.Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

ORDER

% **14.11.2025**

CM APPL. 71197/2025 (exp.)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

FAO(OS) 140/2025

3. The present Appeal, under Clause 10 of the Delhi High Court Act, assails the correctness of the Order dated 11.09.2025 passed by the learned Single Judge in IA No. 22572/2025 in CS(OS) No. 38/2014. The said application, under Section 151 of the Civil Procedure Code, 1908, [“CPC”], was preferred by the Appellant seeking recall of the Order dated 25.08.2022.

4. Learned counsel for the Appellant, *inter alia*, contends that the learned Single Judge erred in passing a decree under Order XII Rule 6 of the CPC, particularly when the Defendant Nos. 3 to 5, including the present Appellant [Defendant No. 4 therein], had disputed the



Registered Will dated 17.08.1994. He submits that on account of the absence of Defendant Nos. 3 to 5 on a particular date of hearing, the learned Single Judge erred in passing the decree despite noticing that Defendant Nos. 3 to 5 have denied that late Dr. S.S. Kaushal executed the Registered Will dated 17.08.1994.

5. He further submits that due to wrong legal advice of the previous counsel representing the Appellant, the Appellant filed an application for Review, whereas they were required to file an application under Order IX Rule 13 of the CPC.

6. Issue Notice.

7. List on 12.02.2026.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
NOVEMBER 14, 2025/nd/va