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

+ **C.R.P. 28/2025**

POOJA BANSAL

.....Petitioner

Through: Ms. Aditi Pancharia, Mr.
Arvind Rathaur, Ms.
Khushi Vaish & Ms. Prachi
Rathore, Advocates.

versus

JAI PRAKASH GUPTA & ANR.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **30.01.2025**

**CM APPL. 5852/2025 (exemption from filing certified copies /
dim copies of the annexures)**

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

**CM APPL. 5853/2025 (condonation of delay of 4 days in re-
filing the petition)**

3. For the reasons mentioned in the application, the delay of 4 days in re-filing the petition is condoned.
4. The application stands disposed of.

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5. The present petition is filed challenging the order dated 19.09.2024, passed by the learned District Judge, North West District, Rohini Courts, Delhi, in Civil Suit No. CS/DJ/278/2021, whereby an application filed by the petitioner under Order XII

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Rule 6 of Code of Civil Procedure, 1908 ('CPC') was dismissed.

6. The suit was filed by the petitioner/plaintiff seeking partition of property bearing no.243-244, Pocket E-21, Sector-3, Rohini.

7. It is the case of the petitioner that the property originally was registered in the name of her mother, who expired intestate, leaving behind the defendants and the petitioner as the legal heirs. The defendants are the father and brother of the petitioner and it is thus claimed that the parties are entitled to 1/3rd share each in the property left behind by the petitioner's mother.

8. It is further claimed that the petitioner's mother had inherited 25% undivided share in the property bearing no.4, Block-A, area measuring 67 sq.yds. i.e., 56.01 sq. mtr., Khasra No.11/25, situated at Abadi of South Anarkali, in the area of Village Khureji Khas, Illaqa Shahdara, Delhi. It is stated that the petitioner executed a relinquishment deed in favour of Defendant No.1 (the petitioner's father) in relation to the property at Shahdara under the belief that the sale consideration of ₹25,00,000/- will be divided equally amongst the parties. The petitioner also sought decree of rendition of account along with declaration for 1/3rd share of the sale consideration of the Shahdara property and also for 1/3rd share in her mother's jewellery.

9. The learned Trial Court dismissed the application noting that the relinquishment deed appears to be a registered document and, therefore, till such time, the same exists, the petitioner cannot claim any right over the property left behind by her mother.

10. The learned counsel for the petitioner submits that the application under Order XII Rule 6 was filed only in relation to



the suit property in Rohini and it was dismissed on an erroneous presumption that the relinquishment deed was in regard to the same.

11. She submits that the written statement filed by the defendants categorically states that the mother of the plaintiff, in whose name the concerned property stands till date, died intestate.

12. She submits that the only ground taken by the defendants in opposing the application under Order XII Rule 6 of the CPC was that the mother of the petitioner, during her lifetime, by way of her oral Will, had granted right over the said property to the defendants.

13. She submits that the Hindu Succession Act, 1956 does not recognize the property being devolved by way of an oral Will.

14. Issue notice.

15. Notice be served through all permissible modes.

16. List on 15.07.2025.

AMIT MAHAJAN, J

JANUARY 30, 2025

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