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

+ CS(OS) No.1161/2015

RAKESH GUPTA AND ANR. .... Appellant

Through: None.

versus

SUSHIL KUMAR GUPTA & ORS. .... Respondents

Through: Mr. Deepak Chopra, Advocate for  
defendant no. 1 and defendant no.2.

**CORAM:**

**HON'BLE MS. JUSTICE DEEPA SHARMA**

**ORDER**

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**13.10.2017**

**Review petition No.314/2017**

1. I have heard the arguments of the learned counsel for the applicant. The present application is filed for review of the order dated 23.05.2017.

2. Learned counsel has agreed that all the arguments which have been addressed by him and all the case laws relied upon by him in support of the arguments have been considered and discussed by this court while disposing of his application Order 7 Rule 11 CPC vide impugned order dated 23.05.2017. He has confined his arguments to a limited contention that his plea in Para 6 (d) of his application dated 02.12.2016 under Order 7 Rule 11

where he has mentioned that “.....According to legal terminology *Bequeath means ..... to leave property by Will*” has not been discussed.

3. I have perused the file and the impugned order.

4. It is apparent that the whole case of the applicant was that the document dated 31.05.2010 is a Will and that of the opposite party was that it was a Codocil. The court, vide impugned order, reached to the conclusion that it was a settlement deed.

5. In view of this, it is immaterial if the meaning of Will has been discussed or not in the impugned order because as per law, Will means bequeathing property by Will.

6. Learned counsel has submitted that Court has failed to take note of the legal proposition that when the Indian Succession Act is applicable, the Transfer of Property Act is not applicable.

7. In view of the fact that this court had concluded that the documents dated 31.05.2010 was not a Will but a settlement, the contention has no consequence.

8. No illegality which goes to the very root of the order has been made out. In the garb of this application, what the applicant is aspiring is, recall of

the order, which is beyond the scope of the law of review. Even otherwise the applicant has challenged the impugned order in appeal which is still pending for disposal. This application has no merit and is hereby dismissed.

**DEEPA SHARMA, J**

**OCTOBER 13, 2017/*js***