

Punjab-Haryana High Court

(O&M) Tara Chand And Ors. vs Rameshwar And Ors. on 1 July, 2026

RSA Nos. 40 of 2002

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 40 of

2002(O&M)

(O&M)

Tara Chand (deceased) through LRs & Ors.

...Appellant

Appellants

Versus

Rameshwar (deceased) through LRs & Ors.

...Respondents

Respondents

Reserved on: 15.05.2026

.2026

Pronounced on: 01.07

01.07.2026

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by:- Mr. Ashish Kapoor, Advocate

For the appellants.

Mr. Ashwani Gaur, Advocate

For the respondents.

DEEPAK GUPTA, J.

The plaintiff (now represented through her legal representatives) has preferred the present Regular Second Appeal assailing the concurrent findings recorded by both the Courts below. The suit instituted by the plaintiff seeking a declaration and consequential relief of permanent injunction in respect of the property in dispute was dismissed by the learned Civil Judge (Junior Division), Gohana vide judgment and decree dated 11.11.1999. The appeal preferred thereagainst was also dismissed by the learned Add Additional itional District Judge, Sonipat on 05.10.2001, thereby affirming the findings returned by the trial Court.

2. For the sake of convenience and to avoid any confusion, the parties shall hereinafter be referred to according to their status before the trial C Court.

ourt.

The record of the Courts below was summoned and has been carefully examined.

3. The controversy arises out of the estate left behind by one Hardeva, who was admittedly the owner of the property in dispute, particulars whereof integrity of this document Page N: 1 of 14 have been detailed in paragraph paragraph No.2 of the plaint. Upon his demise, Hardeva was survived by two children, namely, Ganga Devi (plaintiff) and Deepa (son). Deepa, however, died in the year 1940 and was survived by his widow, Smt. Bohti. The marriage between Deepa and Smt. Bohti remained emained issueless. Smt. Bohti continued to remain in possession of the estate and eventually died on 28.10.1995 without leaving behind any issue.

4. The case set up by the plaintiff was that upon the death of Smt. Bohti, the estate originally belonging to Deepa Deepa, devolved upon her as the sole surviving heir in terms of the provisions of the [Hindu Succession Act, 1956](#). Claiming herself to have become owner in possession of the suit property, the plaintiff asserted that any document, particularly any alleged Will purportedly executed by Smt. Bohti in favour of the defendants, was liable to be ignored. It was pleaded that Smt. Bohti was an octogenarian lady and was not in a fit physical or mental condition to understand the nature and consequences of any transaction.

ction. According to the plaintiff, if any such Will had been brought into existence, the same was the result of fraud and misrepresentation and was not binding upon her rights. Since the defendants refused to acknowledge her claim despite requests made by her, she was constrained to institute the present suit seeking declaration of ownership and consequential relief of permanent injunction.

5. Contest ontesting the suit, defendants denied the claim of the plaintiff and pleaded that relations between Smt. Bohti and the plaintiff were strained, as the latter never visited village Thaska, Thaska where Smt. Bohti was residing. It was further pleaded that the defendants, being the nearest collaterals, had been looking after and serving Smt. Bohti during her lifetime. Owing to the care and services rendered by them, Smt. Bohti, who had become absolute owner of the property by virtue of the provisions of the [Hindu Succession Act](#), executed a registered Will dated 30.08.1995 in their favour, favour out of her own free will and volition volition.. The defendants specifically denied the allegation that Smt. Bohti was incapable of understanding her affairs and asserted that she was in sound disposing mind and integrity of this document Page N: 2 of 14 good health at the time of execution of the Will. On these pleadings, dismissal of the suit was prayed for.

6. The plaintiff filed a replication reiterating the averments made in the plaint and denying those contained in the written statement.

7. Upon the completion of pleadings, the learned trial Court framed the necessary issues arising for determination between the parties. Both sides were afforded adequate opportunity to adduce oral as well as documentary evidence in support of their respective claims.

8. After appreciating the entire evidence on record, the learned trial Court came to the conclusion that the Will dated 30.08.1995 propounded by the defendants stood duly proved in accordance with law. The Court further held that Smt. Bohti had validly bequeathed the suit property in favour of the defendants and, consequently, it was the defendants defendants who had succeeded to the estate and become owners in possession of the property in dispute. Resultantly, the suit filed by the plaintiff came to be dismissed.

9. Aggrieved thereof, the plaintiff preferred an appeal before the learned First Appellate Appellate Court. The learned Additional District Judge, Sonipat, upon a re-appraisal appraisal of the entire evidence and the findings recorded by the trial Court, found no infirmity therein. Concurring with the conclusions reached by the trial Court regarding the due execution execution and validity of the Will, the appeal was dismissed vide judgment & decree dated 05.10.2001.

10. It is against the aforesaid concurrent findings that the present Regular Second Appeal has been filed.

11.1 Learned counsel appearing on behalf of the ap appellant-plaintiff plaintiff (now represented through her legal representatives) has vehemently contended that both the Courts below failed to appreciate several suspicious circumstances surrounding the alleged Will dated 30.08.1995. It is argued that the Will is a handwritten, andwritten, unregistered document comprising two pages, yet the first page does not bear the thumb impression of the testatrix Smt. Bohti. According to the integrity of this document Page N: 3 of 14 learned counsel, such omission creates a serious doubt regarding the genuineness of the document.

11.2 It is further contended that one of the attesting witnesses, namely Om Parkash, has been described in the Will as the Sarpanch of the village. However, during his deposition, the said witness admitted that he was elected Sarpanch only in the year 1996, whereas the Will is stated to have been executed on 30.08.1995. This discrepancy, according to the appellant, casts a serious cloud over the authenticity of the document.

11.3 Learned counsel has also pointed out that although the Will contains serial numbering numbering of witnesses only up to four, signatures of more than four persons appear on the document. It is submitted that this unexplained inconsistency constitutes another suspicious circumstance circumstance, which has remained unaddressed.

11.4 A further submission advanced is that the plaintiff, being the nearest heir entitled to succeed to the estate under the provisions of the [Hindu Succession Act, 1956](#), has been completely excluded from succession under the Will without any convincing explanation. Such exclusion of a natural heir, according to learned counsel, is itself a circumstance requiring closer scrutiny and casts an obligation upon the propounders to satisfactorily explain the same. In support of this this submissions, learned counsel for the appellants has placed ed reliance upon the judgment of the Hon'ble Supreme Court in *Bharpur Singh v.*

687, wherein it was observed that exclusion of Shamsher Singh, (2009) 3 SCC 687, natural heirs and execution of a Will in favour of persons persons, who are not natural successors, may constitute constitute a suspicious circumstance requiring satisfactory explanation from the propounder.

11.5 It has also been argued that no handwriting or fingerprint expert was examined by the defendants to establish that the thumb impressions appearing on the Will were were indeed those of Smt. Bohti. In the absence of such evidence, the defendants, who are the beneficiaries and propounders of the integrity of this document Page N: 4 of 14 Will, failed to discharge the burden cast upon them to dispel the legitimate suspicions surrounding the document.

11.6 To support support his submissions, Ld. Counsel has referred *Inderjit Singh v. Balbir Singh* (Law Finder Doc. ID # 2704379) to contend that proof of a Will must

strictly conform to the requirements prescribed under [Section 63](#) of the Indian Succession Act, 1925 and [Section 68](#) of the Indian Evidence Act, 1872, and that unexplained suspicious circumstances may render the Will una acceptable.

11.7 Further reliance has been placed upon [Lilian Coelho v. Myra Philomena Coelho](#), (2025) 2 SCC 633, wherein the Hon'ble Supreme Court reiterated that even where formal execution of a Will stands established, the Court is duty-bound bound to scrutinize scrutinize and satisfy its judicial conscience regarding the suspicious circumstances pointed out by the objector and to ensure that such circumstances stand adequately explained by the propounder. Reference has also been made to [Ajmer Kaur v. Jasbir Kaur](#) (Law Fin Finder Doc. ID # 2890793) and [Col. Amardeep Amardeep Singh \(Retd.\) v. Anupamdeep Kaur](#), 2025(4) RCR (Civil) 819, to contend that where a Will excludes natural heirs and is attended by suspicious circumstances, the burden lies heavily upon the propounder to remove all legitimate egitimate doubts surrounding its execution and genuineness before the document can be acted upon by the Court.

11.8 On the strength of the aforesaid submissions, learned counsel contends that both the Courts below committed a manifest error in accepting the he Will as genuine and in dismissing the suit filed by the plaintiff. A prayer has, therefore, been made for setting aside the judgments and decrees passed by the Courts below and for decreeing the suit.

12.1 contra, learned counsel appearing on behalf of the respondents-

Per contra, respondents defendants has supported the concurrent findings recorded by both the Courts below and submits that no ground is made out for interference in the exercise of jurisdiction under [Section 100](#) CPC.

12.2 It is contended that the Will dated 30.08.1995 stands duly proved in accordance with the requirements of law. Learned counsel points out that the integrity of this document Page N: 5 of 14 defendants examined not only the scribe of the Will, Parkash Sharma (DW3),, but also two attesting witnesses, who unequivocally deposed regar regarding its execution and attestation. Their testimonies, according to learned counsel, fully satisfy the statutory requirements prescribed under [Section 63](#) of the Indian Succession Act, 1925 and [Section 68](#) of the Indian Evidence Act, 1872.

12.3 Referring to the plea raised by the plaintiff regarding the alleged unsoundness of mind and poor health of Smt. Bohti, learned counsel submits that the defendants led independent evidence to dispel such allegations. In this regard, the medical practitioner, practitioner who had been en treating Smt. Bohti during her lifetime was examined. The said witness namely Dr.C.D. Sharma (DW2) categorically deposed that although Smt. Bohti used to visit him for medical treatment, she remained mentally alert, physically active and fully capable of o understanding her affairs. It is, therefore, argued that the

allegation that the testatrix lacked the requisite mental capacity stands completely belied by the evidence on record.

12.4 Learned counsel further submits that both the Courts below have undertaken taken a detailed appreciation of the entire oral and documentary evidence and have concurrently concluded that the Will was validly executed and attested. It is argued that none of the circumstances projected by the appellant-

appellant plaintiff can legitimately be termed as suspicious circumstances warranting rejection of the testamentary document.

12.5 With regard to the submission that Om Parkash (DW4), one of the attesting witnesses to the Will, was described in the Will as the Sarpanch despite allegedly assuming assuming that office only in the year 1996, learned counsel contends that the testimony of the witness has been wholly misconstrued. It is pointed out that Om Parkash had, in fact, been functioning as Sarpanch even prior to the execution of the Will. In support thereof, learned counsel has drawn attention to a Gram Panchayat resolution dated 05.02.1995 bearing the signatures of Om Parkash as Sarpanch. It is further submitted that the statement of Om Parkash was itself recorded in the year 1995 and, therefore, the contention that he admitted to having become Sarpanch in the year 1996 is factually incorrect.

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12.6
contains a clear

Learned counsel also submits that the Will itself

explanation as to why the plaintiff was not chosen as the beneficiary. According to the recitals in the Will, although the relationship between Smt. Bohti and the plaintiff was not denied, the testatrix had consciously decided not to bequeath her estate to the plaintiff and instead chose to confer the property upon the defendants, who had been been serving and looking after her. Therefore, mere exclusion of a natural heir, without anything more, cannot by itself constitute a suspicious circumstance.

12.7 In support of his submissions, learned counsel has relied upon the judgment of this Court in Tara Singh through LRs v. Furan Singh through LRs, LRs RSA No.1673 of 1990 decided on 04.02.2026, wherein it was held that a testator's preference for one heir or beneficiary to the exclusion of others does not, by itself, constitute a suspicious circumstance surrounding the execution of a Will.

12.8 Reliance has also been placed upon the judgment of the Hon'ble Supreme Court in [Dhanpat v. Sheo Ram](#) (deceased) through LRs and others, 2666, wherein it was observed that the validity of a Will must be 2020 AIR (SC) 2666, assessed on the cumulative effect of all surrounding circumstances. The Court held that a Will cannot be rejected merely because of an isolated unusual feature; rather, the judicial determination must rest upon an overall evaluation of all suspicious circumstances and their collective impact on the genuineness of the testamentary instrument.

12.9 Learned counsel, therefore, submits that the Will stands duly proved in accordance with the requirements of law and that the alleged suspicious circumstances either do not exist or stand satisfactorily explained. It is contended that both the Courts below have, upon a proper appreciation of the oral and documentary evidence, concurrently upheld the validity of the Will. The findings so recorded being pure findings of fact, free from any perversity, misreading of evidence or legal infirmity, do not warrant interference in exercise of jurisdiction under [Section 100](#) CPC. It is thus argued that no substantial integrity of this document Page N: 7 of 14 question of law arises for consideration and the appeal deserves to be dismissed.

13. I have heard learned counsel for the parties at length and have carefully perused the record of the Courts below.

14. At the outset, certain facts are undisputed. The plaintiff Ganga Devi was the sister of Deepa, the deceased husband of Smt. Bohti. It is equally undisputed that upon the death of her husband, Smt. Bohti came into possession of the property in dispute. Though initially she may have held a limited estate under the then prevailing Hindu law, but by virtue of [Section 14\(1\)](#) of the Hindu Succession Act, 1956, her limited interest enlarged into an absolute estate, thereby conferring upon her full ownership rights over the property.

15. Smt. Bohti admittedly died issueless and her husband had pre-

deceased her. In such circumstances, had she died intestate, succession to her estate would have been governed by [Section 15](#) of the Hindu Succession Act, 1956. Since she left behind none of the heirs contemplated under [Section 15\(1\)\(a\)](#), the property would ordinarily devolve upon the heirs of her husband in terms of [Section 15\(1\)\(b\)](#) of the Act. The plaintiff claims entitlement on that basis. The defendants, however, set up a testamentary succession founded upon a Will dated 30.08.1995 allegedly executed by Smt. Bohti in their favour.

16. Therefore, the controversy essentially narrows down to a solitary question, namely, whether the Will dated 30.08.1995 has been validly executed and proved in accordance with law. If the Will survives judicial scrutiny, the defendants would succeed to the estate

by virtue thereof. Conversely, if the Will is discarded, succession would open in accordance with the provisions of the Hindu Succession Act.

17. In [Meena Pradhan and others v. Kamla Pradhan and another](#), 734, the Hon'ble Supreme Court comprehensively summarized the (2023) 9 SCC 734, principles governing proof of a Will. Referring to various precedents, it was held as under:

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10. Relying on [H. Venkatachala Iyengar v. B.N. Thimmajamma Thimmajamma](#), 1959 Supp (1) SCR 426 (3-Judge Bench), [Bhagwan Kaur v. Kartar Kaur](#), (1994) 5 SCC 135 (3-Judge Bench), [Janki Narayan Bhoir v. Narayan Namdeo Kadam Kadam](#), (2003) 2 SCC 91(2-Judge Bench) [Yumnam Ongbi Tampha Ibema Dev Devii v. Yumnam Joykumar Singh](#), (2009) 4 SCC 780 (3-Judge Bench) and [Shivakumar v. Sharanabasappa](#), (2021) 11 SCC 277 (3-Judge Bench), we can deduce/infer the following principles required for proving the validity and execution of the Will:

i. The court has to consider two aspects: firstly, that the Will is executed by the testator, and secondly, that it was the last Will executed by him;

ii. It is not required to be proved with mathematical accuracy, but the test of satisfaction of the prudent mind has to be applied.

iii. A Will is required to fulfil all the formalities required under [Section 63](#) of the Succession Act, that is to say:

(a) The testator shall sign or affix his mark to the Will or it shall be signed by some other person in his presence and by his direction and the said signature or affixation shall show that it was intended to give effect to the writing as a Will;

(b) It is mandatory to get it attested by two or more witnesses, though no particular form of attestation is necessary;

(c) Each of the attesting witnesses must have seen the testator sign or affix his mark to the Will or has seen some other person sign the Will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgment of such signatures;

(d) Each of the attesting witnesses shall sign the Will in the presence of the testator, however, the presence of all witnesses at the same time is not required;

iv. For the purpose of proving the execution of the Will, at least one of the attesting witnesses, who is alive, subject to the process of court, and capable of giving evidence, shall be examined;

integrity of this document Page N: 9 of 14 v. The attesting witness should speak not only about the testator's signatures but also that each of the witnesses had signed the will in the presence of the testator;

vi. If one attesting witness can prove the execution of the Will, the examination of other attesting witnesses can be dispensed with;

vii. Where one attesting witness examined to prove the Will fails to prove its due execution, then the other available attesting witness has to be called to supplement his evidence;

viii. Whenever there exists any suspicion as to the execution of the Will, it is the responsibility of the propounder to remove all legitimate suspicions before it can be accepted as the testator's last Will. In such cases, the initial onus on the propounder becomes heavier.

ix. The test of judicial conscience has been evolved for dealing with those cases where the execution of the Will is surrounded by suspicious circumstances. It requires to consider factors such as awareness of the testator as to the content as well as the consequences, nature and effect of the dispositions in the Will; sound, certain and disposing state of mind and memory of the testator at the time of execution;

execution; testator executed the Will while acting on his own free Will;

x. One who alleges fraud, fabrication, undue influence et cetera has to prove the same. However, even in the absence of such allegations, if there are circumstances giving rise to doubt, then it becomes the duty of the propounder to dispel such suspicious circumstances by giving a cogent and convincing explanation.

xi. Suspicious circumstances must be 'real, germane and valid' and not merely 'the fantasy of the doubting mind'.

Whether a particular feature would qualify as 'suspicious' would depend on the facts and circumstances of each case. Any circumstance raising suspicion legitimate in nature would qualify as a suspicious circumstance for example, a shaky signature, a feeble mind, an unfair and unjust disposition of property, the propounder himself taking a leading part in the making of the Will under which he receives a substantial benefit, etc. integrity of this document Page N: 10 of 14

11. In short, apart from statutory compliance, broadly it has to be proved that

(a) the testator signed the Will out of his own free Will, (b) at the time of execution he had a sound state of mind, (c) he was aware of the nature and effect thereof and (d) the Will was not executed under any suspicious circumstances.

circumstances."

18. Analysing the evidence in the present case by keeping in mind the above legal position, perusal of Ex.D-1 1 reveals that the Will is a handwritten document consisting of two pages and was scribed by Prakash Sharma, Advocate, Gohana. The document bears the thumb impression of Smt. Bohti and stands attested by several respectable inhabitants of the village, including Dhan Ram, Khazan Singh, Ram Sarup, Dallu Nambardar, Om Parkash Sarpanch and Ram Chander, Ex-Sarpanch.

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19. In order to prove the Will, the defendants examined the scribe Prakash Sharma as DW-2 DW 2 and two attesting witnesses, namely Om Parkash (DW-

(DW

4) and Dhan Ram (DW-5).

(DW 5). Their testimonies consistently establish that the Will was executed by Smt. Bohti voluntarily, after understanding its contents, and that the attesting witnesses signed the document in accordance with law. The evidence led by the defendants thus satisfies the statutory requirements contained in [Section 63](#) of the Indian Succession Act, 1925 and [Section 68](#) of the Indian Evidence Act, 1872.

20. The defendants further further examined Dr. C.D. Sharma (DW2), who had been treating Smt. Bohti for several years. The said witness categorically deposed that although she suffered from ailments associated with old age, including arthritis, asthma and blood pressure, she remained mentally alert and was capable of understanding her affairs. Significantly, even one of the legal representatives of the plaintiff, while appearing in evidence, admitted that Smt. Bohti was mentally fit.

21. Both the Courts below have, upon a detailed appreciation of the oral and documentary evidence, concurrently held that the Will stands duly proved. This Court finds no perversity, misreading of evidence or omission of any material circumstance in the said findings.

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22. The principal challenge raised by learned counsel for the appellant relates to the alleged suspicious circumstances surrounding the execution of the Will. Before examining those circumstances, it is necessary to notice that the plaintiff had specifically alleged that the Will was a product of fraud. Once such a plea was raised, the burden squarely rested upon the plaintiff to establish the same by clear, cogent and convincing evidence. Mere allegations are not proof.

23. The pleadings reveal that the allegation of fraud was founded primarily on the assertion that Smt. Bohti was aged, infirm, hard of hearing, suffering from various ailments and incapable of understanding the nature of the transaction. However, no convincing evidence whatsoever was produced to substantiate these allegations. On the contrary, the testimony of DW DW-2 Dr. C.D. Sharma conclusively establishes that notwithstanding her physical ailments, Smt. Bohti was mentally sound and capable of understanding her affairs.

24. It is well settled that old age, physical weakness, and defective eyesight, hearing impairment or bodily ailments do not, by themselves, establish lack of testamentary capacity. The determinative factor is whether the testator possessed a sound disposing state of mind at the time of execution of the Will. The evidence on record unmistakably answers this requirement in favour of the defendants.

25. The First Appellate Court has elaborately examined every circumstance projected by the plaintiff as suspicious and has returned findings which merit acceptance. The Court correctly observed that the defendants had discharged their initial burden by examining the scribe and attesting witnesses and by proving the due execution and attestation of the Will. Once such burden stood discharged, the onus shifted upon the plaintiff to substantiate the allegations of fraud and suspicious circumstances. The plaintiff failed to do so.

26. The contention that the Will is suspicious because it is unregistered is equally devoid of merit. Registration of a Will is not mandatory. An unregistered Will, if otherwise duly executed and proved, is as valid and integrity of this document Page N: 12 of 14 enforceable as a registered Will. Non-registration, by itself, cannot constitute a suspicious circumstance.

27. Equally untenable is the argument that the Will should be discarded because the plaintiff, being a natural heir, has been excluded. The very object of a testamentary disposition is to alter the normal line of succession. Mere exclusion of a natural heir does not render a Will suspicious. What is required is an examination of whether reasons exist for such exclusion and whether the disposition appears unnatural or irrational.

28. In the present case, the Will itself records that relations between Smt. Bohti and the plaintiff were strained and that the defendants had been lookingg after her. The defendants are not strangers to the family but are collaterals of the husband of Smt. Bohti. Thus, the disposition cannot be described as unnatural or inexplicable. The reasons for preferring the defendants have been expressly recorded by the testatrix herself.

29. The argument regarding the status of Om Parkash as Sarpanch is also without substance. Learned counsel for the appellant has sought to rely upon an isolated statement in cross-examination cross examination suggesting that Om Parkash became Sarpanch Sarpanch in the year 1996. However, the said statement stands completely neutralized by contemporaneous documentary evidence. A Gram Panchayat Resolution dated 05.02.1995, produced before this Court, bears the signatures of Om Parkash as Sarpanch. This clearly d demonstrates emonstrates that he was holding the office of Sarpanch well before the execution of the Will in August, 1995. The alleged discrepancy, therefore, appears to be no more than an inadvertent error or slip in testimony and is incapable of discrediting an otherwise wise duly proved Will.

30. Similarly, the contention that the Will bears signatures of more than two witnesses does not advance the case of the appellant. The law merely requires attestation by a minimum of two witnesses. There is no prohibition against a Will being attested by a larger number of witnesses. If anything, integrity of this document Page N: 13 of 14 attestation by several respectable persons of the village lends additional assurance regarding the authenticity of the document.

31. The principles governing proof of a Will have recently been comprehensively reiterated by the Hon'ble Supreme Court in [Meena Pradhan & Ors. v. Kamla Pradhan & Anr.](#) (supra). The Supreme Court emphasized that suspicious circumstances must be real, germane and substantial and not the product of mere conjectures or the imagination of a dissatisfied heir. Applying those principles to the facts of the present case, this Court find findss that none of the circumstances relied upon by the plaintiff rises to the level of a genuine suspicious circumstance capable of dislodging the Will.

32. This Court is, therefore, in complete agreement with the conclusions reached by both the Courts below that the Will dated 30.08.1995 stands duly proved, that the allegations of fraud remain wholly unsubstantiated and that the purported suspicious circumstances either do not exist or stand satisfactorily explained.

33. The findings recorded by the Courts below are pure findings of fact based upon a proper appreciation of evidence. No perversity, illegality, misreading of evidence or substantial question of law has been demonstrated so as to warrant interference in exercise of jurisdiction under [Section 100](#) of the Code of Civil Procedure.

34. Consequently, finding no merit in the present appeal, the same is hereby dismissed. The judgments and decrees passed by the Courts below are affirmed.

35. Misc. application (s), if any also stands disposed of.

GUPTA)

01.07.2026

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(DEEPAK

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

Uploaded on : 01 July, 2026