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

% ***Reserved on: 11thMay, 2026***

Pronounced on: 10thJune, 2026

\+ **RFA 1050/2025, CM APPL. 72251/2025**

SH. DEEPAK KAUSHIK
S/o Late Sh. Ramphal Kaushik
R/o A-36 Yadav Nagar, Samaypur, Delhi. .....Appellant

Through: Mr. Sudhir Nandrajog, Sr. Adv. with Mr. H. S. Kohli, Mr. Yash Kadyan, Mr. Raghav Kaushik, Ms. Rishika Jain, Ms. Mannat Kohli, Ms. Ankita Singh, Advocates.

versus

1. **VINOD KAUSHIK**
S/o Late Sh. Ramphal Kaushik
R/oFlat No. 343, Sangam Apartment,
West Enclave, Pitampura,New Delhi.

Also at:

9, Engineering College Lane, Opposite DTU,
Shahabad Daulatpur, Bawana Road,
Sector 17, Rohini,Delhi.

2. **SANTOSH SHARMA (LR. OF MS. CHANDERWATI)**
W/O Late Satnarayan Sharma
R/O H.No.218-A, Shanti Nagar,Panipat, Haryana.

3. **SANGEETA DIXIT (LR. OF MS. CHANDERWATI)**
W/O Sh. Rakesh Dixit
R/O P-3, Safdarjung Enclave,Police Lane, Delhi.

4. **KRISHNA KAUSHIK**
W/O Late Satbir Kaushik
R/O D-46, Yadav Nagar, Samaypur, New Delhi.

5. SEEMA
D/oLate Satbir Kaushik
R/o 617, Malwan Panna,Jharoda, Kalan, Delhi.

6. SONIA VASHISTH
D/O Late Satbir Kaushik
R/O 18, Roshan Mandi,Najafgarh, Delhi.

7. MS. SHUBHI KAUSHIK (LR. of Late Sh. NARESH KAUSHIK)
R/O 45B, First Floor,Yamuna Enclave,
Panipat, Haryana.

8. MS.MUSKAN KAUSHIK (LR. of Late Sh. NARESH KAUSHIK)
R/O 45B, First Floor,Yamuna Enclave,
Panipat, Haryana.

9. MR.VISHESH KAUSHIK (LR. of Late Sh. NARESH KAUSHIK)
R/O 45B, First Floor,Yamuna Enclave,
Panipat, Haryana.

10. SUDERSHAN KAUSHIK @SONU
S/O Late Satbir Kaushik
R/O D-46, Yadav Nagar, Samaypur, New Delhi. .....Respondents

Through: Mr. Kirti Uppal, Sr. Advocate with Mr. Peeyoush Kalra, Mr. A Abhiraj Ray, Mr. Aamir Abbas Naqvi and Mr. Arpit Sharma, Advocates for R-1 &R-4 to R-6.
Ms. Faguni Katyal, Adv. for R-2 & 3.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. **Regular First Appeal** under Section 96 read with Order XLI of the Code of Civil Procedure, 1908 (*hereinafter referred to as "CPC"*) has been

filed on behalf of the *Plaintiff/Appellant, Sh. Deepak Kaushik*, against Judgment dated **29.10.2025**, whereby the *Suit filed by the Plaintiff seeking Declaration and Permanent Injunction*,has been ***rejected under Order VII Rule 11 of the CPC, by the learned District Judge***.

2. The Plaintiff filed a Civil Suit bearing No. CS DJ 679/2018, seeking *Declaration and Permanent Injunction.*

3. **The brief facts**, as narrated in the ***Plaint,*** are that the Plaintiff and the Respondents are the Legal Heirs of late Ramphal Kaushik, who had expired *intestate*on **09.10.2003** and was survived by his wife Chandrawati, four sons namely,SatbirKaushik, VinodKaushik, NareshKaushik and DeepakKaushik and two daughters namely,Santosh Sharma and Sangeeta Dixit.

4. One son, Satbir Kaushik died and was survived by his wife Krishna, one son, Sudershan Kaushik and two daughters, Seema and Sonia. All the Legal Heirs of late Satbir Kaushik authorised Sudershan Kaushik, **his son**,to sign the Family Arrangement,as agreed on behalf of all the family members.

5. The Plaintiff claimed that he and his family members,as per the wishes of late Ramphal Kaushik, in the year 2009 settled by way of compromise, the share of the family members in the properties of late Ramphal Kaushik. It was further claimed that afterdue deliberations,they finalised theFamily Arrangement dated **10.10.2009**. It was asserted that, the share of the family members in the properties of late Ramphal Kaushik, had already been settled by an Oral Agreement;however, to avoid any future dispute,it was reduced into the Family Arrangement dated 10.10.2009, in presence of a common family friend, Sh. Rishal Singh.

6. It was stated that Late RamphalKaushik had purchased many immovable properties,under the name of various family members from the

joint family funds.TheFamily Arrangement dated 10.10.2009 was essentially for recording the mutual consent of all the share-holders and to avoid any future litigation. The said Family Arrangement was duly signed and acknowledged by all the share-holders, including Defendant Nos. 1 and 2.

7. This Family Arrangement dated 10.10.2009, included an agricultural land admeasuring12 Bighas 14 Biswas out of Khasra No.51/21(0-11), 22(4-6), 23(0-14), 28(0-4), 57/2(2-3), 3(4-16) situatedin the revenue record of Village Bakoli (*hereinafter referred to as 'Suit Property'*), which was purchased by late Ramphal Kaushik, in the name of *Defendant No. 2, Smt. Chandrawati*. Thoughthe share of the family members in the said Property was already settled, however, *it was not divided in metes and bounds and was agreed to remain joint.*

8. It was further claimed that DefendantsNo.3 and 4 acted upon the saidFamily Arrangement dated 10.10.2009 and further compromised the properties between themselves, on **14.03.2010**. The Suit Property, since inception of the aforesaid Family Arrangement,has been in the common possession of all the family members.

9. It was asserted that Smt. Chandrawati was merely a custodian of the Suit Property,prior to the Family Arrangement dated 10.10.2009. The Plaintiff further claimed that he had acted upon the said Family Arrangement and paid his share of money of Rs.25,000/-, for the installation of water pump, in the Suit Property.

10. Thejoint possession of all the family members in the Suit Property, was duly recorded in theFamily Arrangement dated 10.10.2009 and the

same was taken on record by Delhi Jal Board in the year 2015, when they started raising Bills for the use of Borewell/water pump.

11. DefendantNo.1,who was elder brother of the Plaintiff, on **23.08.2016,**luredDefendantNo.2, Smt. Chandrawati, **mother of the Plaintiff and Defendant No. 1**,to stay with him, at his residence. It was claimed that Defendant No.1,had developed a greed in regard to the Suit Property, which stood in the name of DefendantNo.2, and enticed her to execute a ***Gift Deed dated* 21.05.2018 in respect of Suit property,** in his favour.

12. The Plaintiff further claimed that Defendant No. 1had been living separately since **1988**, and had never shown any care or compassion towards DefendantNo.2. Apprehending the evil intention of DefendantNo.1, the Plaintiff had filed an Application before the learned LAC in regard to the suitproperty, mentioned herein above.

13. The Plaintiff got issued a Notice dated **03.04.2018** from the learned LAC, in regard to issuance of NOC in respect of the SuitProperty.*The Plaintiff had also* **filed a Suit for Partition, in the learnedRevenue Court,** in respect of the Suit Property, ***which was dismissed by the SDM on 17.05.2018, as being not maintainable.***An Appeal was preferred by the Plaintiff before the DM, which is still pending.

14. The Plaintiff claimed that he came to know about the execution of Gift Deed dated 21.05.2018,during the pendency of the aforesaid Appealfiled by him. Even though the Plaintiff has filed his Objections, the concerned Authority is still pursuing the mutation of the Suit Property, in the name of DefendantNo.1. In case DefendantNo. 1 succeeds in mutating the SuitPropertyunderhis name,on the basis of the Gift Deed dated

21.05.2018, the Plaintiff would suffer irreparable loss, which cannot be compensated in terms of money.

15. The Plaintiff claimed that he had received information from a reliable sourcethat DefendantNo.1 wants to dispose of the Suit Property, after getting it mutated in his name, for which he has already contacted various persons.

16. The ***Plaintiff challenged the Gift Deed dated 21.05.2018 on the ground*** that DefendantNo.1 had gotten the said Gift Deed executed in his favour from DefendantNo.2 with respect to the entire land, knowing well that the same was co-ownedby all the family members,as agreed in the Family Arrangement dated 10.10.2009.

17. ***The Plaintiff thus, filed the presentSuit for declaring the Gift Deed dated 21.05.2018, as null and void and for Permanent Injunction to restrain DefendantNo.1 from selling the Suit Property or creating third-party rights in the same.***

18. The aforesaid Suit was contested by **DefendantNos.1, 2 and 4** who in their **Written Statement**, claimed that DefendantNo.2 was the registered owner of the Agricultural Land,till the execution of Gift Deed dated 21.05.2018. She was the sole and exclusive owner; and was in absolute possession of the Suit Property. It was explained that DefendantNo.2 had purchased the SuitProperty from Shri Hukum Singh s/o Sh. Sujan Singh on**12.09.1988**. It being her self-acquired Property, she could deal with it, according to her own free will. It was asserted that the Plaintiffcannot claim any right, title or interest in the said Agricultural Land and thus,*the Plaint did not disclose any cause of Action.*

19. It was further asserted that the present Suit was barred by the provisions of *The Benami Transactions (Prohibition) Act, 1988* and was not maintainable,on account ofDefendantNo.2being the registered owner of the Suit Property. *It was claimed that the Suit was liable to be rejected under Order VII Rule 11 of the CPC.*

20. It was further claimed that the Suit was liable to be dismissed, on the ground of concealment of facts. It has not been disclosed that prior to filing of the present Suit, *DefendantNo.3 Shri Naresh Kaushik*had also filed a Suit bearing No.116/2018 titled as <u>*Naresh Kaushik & Ors. vs. Smt. Chanderwati & Ors.*</u>, for *Permanent and Mandatory Injunction*with regard to the alleged Family Arrangement dated 10.10.2009, before the Court of learned Senior Civil Judge.

21. In the said Suit, the Plaintiff hereinwas arrayed as DefendantNo.3. The Court, *vide* a speaking Order, declined to grant interim Injunction toDefendantNo.3 in the said Suit. The Defendants herein, in the said Suit had filed a Written Statement taking objection with regard to the Property in question being a self-acquired Property of Defendant No.2 and that it cannot be a subject-matter of partition, by way of the said Family Arrangement. ***Consequently, the Suit filed by Defendant No. 3 was dismissed by the Court, vide Order dated 21.04.2018.***

22. It was further asserted that perusal of the said Family Arrangement, reflects that the Suit Property has been mentioned, as not having been divided amongst the family members. Furthermore, DefendantNo.2 was the registered owner of the Land in question and the same cannot form part of any FamilySettlement and that she was free to dispose of the same,

according to her own free will. The Plaintiffthus,cannot claim any right, title or interest, in the SuitProperty.

23. It was further submitted that the value of the Properties being partitioned was admittedly more than Rs.100/- and the Family Arrangement dated 10.10.2009 was therefore, compulsorily required to be registered, in terms of Section 17 of the Registration Act, 1908. Inthe absence of Registration, the said Family Arrangement cannot be taken as evidence in terms of Section49 of the Registration Act, 1908.

24. Another Objection taken by the Defendants was that the present Suit had not been valued properly for the purpose of Court Fee and valuation.Admittedly, the value of the Suit Property as reflected in the registered Gift Deed was Rs.1,40,22,920/-, but the Court Fee affixed with the present Suit is Rs.200/-. The Court Fee should have been paid on the value stated in the Gift Deed, however, it is undervalued and liable for rejection.

25. **On merits,** similar contentions**,** as taken in the PreliminaryObjection, were reiterated.

26. *Thus, it was prayed thatSuit filed by the Plaintiff seeking Declarationof the Gift Deed dated 21.05.2018as null and void and Permanent Injunction be dismissed.*

27. Thereafter, an **Application under Order VII Rule 11**of the CPC was filed on behalf of **Defendant Nos.1, 2 and 4** seeking rejection of the Plaint. It was submitted that the entire Suit is premised on Family Arrangement dated 10.10.2009 between the Plaintiffs and Defendants in respect of the Suit Property, which had not been partitioned, at the time of execution of the said Family Arrangement.

28. Defendant No. 2 was the registered owner of the land in question and thus, the same could not form part of any Family Settlement. The Plaintiff cannot claim any right, title or interest in the Suit Property; therefore, no cause of action was disclosed in the plaint.

29. It was further claimed that Family Arrangementdated 10.10.2009 did not record any terms that had been arrived between the parties, prior tothe said date. In fact, the Settlement records that the terms had been arrived between the parties on the same date, i.e., 10.10.2009. Moreover, the value of the propertiesmentioned in the Settlement Agreement dated 10.10.2009,was more that Rs.100/- in value. The alleged Family Arrangementtherefore,requiredcompulsory registration in terms of Section 17 Registration Act, 1908. Since the Family Arrangement was not a registered document, it cannot be read as evidence in terms of Section 49 Registration Act, 1908. The said document, therefore, cannot be looked into for any purpose.

30. The Defendants have further contended that the Suit is barred by The Benami Transactions (Prohibition) Act, 1988 and is not maintainable. Defendant No. 2 was the sole owner of the Suit Property and any contrary allegations claiming right in the Suit Property, is barred under law.

31. The Defendants further claimed that the Suit Property has not been valued property for the purpose of Court Fee. *In the end, it wasprayed that the plaint did not disclose any cause of action and is liable to be rejected.*

32. The aforesaid Application was contested by the **Plaintiff,**who in his **Reply to the Application** asserted that the properties mentioned in the Family Arrangement dated 10.10.2009, were under different names. Moreover, the said Arrangement was an outcome of detailed discussions

held between the family members, in the presence of the family friend, Sh. Rishal Singh, who had put his signatures as well. The Plaintiff had filed the records of the proceedings of the Family Settlement, wherein it was stated thatthe Suit Propertyhas been put as joint property and for the maintenance of this farmat least Rs.1 lakh, would be required. It was agreed that an amount of Rs.25,000/- shall be payable by each of the family members. After this, signatures of Sh. Sudarshan Kaushik, **Defendant No. 4**, Vinod Kaushik, **Defendant No.1**, thumb impression of Ms. Chanderwati **Defendant No.2**, Deepak Kaushik, **Plaintiff**, Mr. Naresh Kumar **Defendant No. 3** and Rishal Singh, were ascribed on the said Family Settlement dated 10.10.2009.

33. Furthermore, it was asserted that a mere Agreement to divide properties does not require registration, but if the writing itselfeffects the division, it must be registered. The Family Settlement dated 10.10.2009 was a Memorandum between the family members and its registration was not necessary in terms of the judgment of the Apex Court in *Roshan Singh and Others v. Zile Singh and Others* 1988 Legal Eagle 168 and *S. Satinder Singh &Ors. v. S. Raminder Sarup Singh & Anr.* 2018 Legal Eagle 481. Even otherwise, Section 91 of the Indian Evidence Act, 1872 is very clear in this context.

34. The prior proceedings leading to the FamilyArrangement,are an admitted fact which supersedes all the contentions raised by the Defendants. Furthermore, the Family Arrangement is an admission of facts, which as per Section 17 and Section 3 of the Indian Evidence Act, 1872is binding and anything stated contrary, are irrelevant in the present context. Furthermore, in the light of the specific terms and agreement between the parties, the

provisions of The Benami Transaction (Prohibition) Act, 1988,are also not applicable.

35. The Plaintiff has further asserted that the Gift Deed dated 21.05.2018executed in favour of Defendant No. 1, was no document in the eyes of law and is required to be declared *as null and void*. Defendant No. 1 could not have gotten this document executed from Defendant No. 2 by surpassing the rights of all other persons, who were the parties to Family Arrangement dated 10.10.2009.

36. In regard to the Court Fee, the Plaintiff submitted that without prejudice, he was willing to pay the requisite Court Fee, on the plaint. *It was, therefore, prayedthat the plaint disclosed cause of action and the Application of the Defendant under Order VII Rule 11 CPC was liable to be dismissed*

37. The ***learned District Judge***after considering the rival contentions raised in the Application under Order VII Rule 11 CPC, observed that there were no documents reflecting that the properties of late Ramphal Kaushikhad been purchased from the joint family fund in the name of Defendant No. 2. The payment for the Suit Property was not shown to be from the known sources, i.e., bank account, declared funds and income tax of the late Ramphal Kaushik. Consequently, it was held that on the basis of bald averments made in the plaint, it cannot be said that the plaint discloses any cause of action.

38. It was further observed that the entire case of the Plaintiff was based on the Family Arrangement dated 10.10.2009, which was for the first timesettled the rights of the parties in the immovable properties of late Ramphal Kaushik. Reliance was placed on <u>*TekPahaduBhujil v. Debi Singh*</u>

_Bhujil_AIR1966SC291, _Kale and Ors. v. Deputy Director of Consolidation and Ors._1976 3 SCC 119 and _Jagdish Kumar Sachdeva v. Subhash Chander Sachdeva_ 2011 SCC OnLine Del 2275, **wherein, it was held that such a document where the arrangement is brought about by the document itself, it would require registration, as it would be a document declaring future rights and what properties the parties would possess.**

39. Similar observations were made in the case of _Jagdish Kumar Sachdeva v. Subhash Chander Sachdeva_ and _Bhoop Singh v. Ram Singh Major_ (1995) 5 SCC 709.It was thus, held that since the Family Arrangement dated 10.10.2009 was neither registered nor duly stamped, it was inadmissible in evidence and the Gift Deed dated 21.05.2018 executed by Defendant No. 2 in favour of Defendant No. 1 in respect of the Suit Property, cannot be challenged on the basis of the said Settlement.

40. *Aggrieved by the aforesaid Judgment dated 29.10.2025 the Plaintiff had preferred the* ***present Regular First Appeal under Section 96 read with Order XLI Rule 1 CPC.***

41. The **Grounds of Challenge** are that the Plaintiff had never challenged the rights of Defendant No. 2 in respect of her title in the Suit Property.However, it was claimed that the suitproperty was made part of the Family Settlement, which had been executed by all the stakeholders, including Defendants No. 1 & 2,during the lifetime of Defendant No. 2.There was no occasion for the Court to venture in to analyzing the bar under TheBenami Transaction (Prohibition) Act, 1988and the same could not have been considered, while disposing of the Application under Order VII Rule 11 of the CPC.

42. TheSuit Property was kept into the common hotchpotch for reaching the Family Settlement *inter se* amongst stakeholders, wherein,the parties had collectively agreed to keep it under the joint claim of all the family members of the Family Settlement. It was never the case of the Plaintiff that, Defendant No. 2 had no right of disposition,as is being projected by the Defendants.

43. The learned District Judge erred in trashing the Family Arrangement dated 10.10.2009 and denying the rights thereunder, *solely on the basis of the said Arrangement being unregistered.* It was asserted that Section 17 read with Section 49 of the Indian Registration Act, 1908 would bar only when the parties assert their claims based on such unregistered document, but does not bar the Court from considering such document for collateral purposes, as has been observed by the Apex Court in the case of *P. Anjanappa (D) By LR's v. A.P. Nanjundappa and Ors.* 2025 INSC 1286.

44. The Family Settlement propounded by the Plaintiffs, though cannot be taken as evidence in terms of the bar under Section 49 of the Registration Act, 1908, but can still be relevant to consider that the Suit Property was made part of the division of properties, by way of the Family Arrangement dated 10.10.2009, wherein, Defendant No. 2, who was the registered owner of the Suit Propertywas also a party.

45. Overlooking such proposition of law, while rejecting the plaint of the Plaintiff by the learned Trial Court, is on the misconceived construction as to the implication of an unregistered document for consideration and adjudication of the claims of third parties.Once the Family Settlement has been acted by the parties, such Settlement needs no registration, for which

reliance is placed on _Kale and Ors. v. Deputy Director of Consolidation and Ors._1976 3 SCC 119.

46. It was thus, contended that the defence taken by the Defendants could not have been the basis for rejection of the plaint, as has been observed in the case of _Tilak Raj v. Ranjit Kaur_ 2012 (5) AD (DELHI)186, _Pawan Kumar v. Babulal since deceased through LRs and Ors_2019 (136) ALR 207, _Atma Singh and Ors. v. Prem Singh and Ors._ MANU/DE/3041/2022.

47. *It is, therefore,prayed that the impugned Judgment be set aside and the Suit be remanded back for trial on merits.*

Submissions heard and record perused.

48. The Plaintiff has sought to declare the Registered Gift Deed dated 21.05.2018 executed by Defendant No.2, the mother in favour of Defendant No.1/sonas null and void, on the ground of the Family Arrangement dated 10.10.2009, whereby the properties of late Ramphal Kaushik including the Suit Property were divided amongst all the family members, including the Plaintiff and Defendants. It is asserted that after the aforesaid Family Settlement, Smt. Chanderwati ceased to be the exclusive owner of the Suit Property, and thus, had no right or title, to execute the Gift Deed in favour of Defendant No.1.

49. It is not in dispute that the Suit Property had been purchased in the name of Defendant No.2,by her husband, late Ramphal Kaushik and thus, she became the registered owner of the Suit Property.

50. The Learned District Judge, to buttress the contentions of the Plaintiff, of the Property being in the exclusive name of the Plaintiff had referred to the definition of benami transaction in Section 2(9) of The

Prohibition of Benami Property Transactions Act, 1988, and held that every transaction or arrangement, where property is held by a person and consideration is paid by another, *cannot be termed as benami transaction*. There were four exceptions recognized to this definition and one of it is the property held by any individual in the name of the spouse, but consideration paid out of his own sources, *falls beyond the definition of a benami transaction.*

51. It was held that Section 4 of the Benami Property Transactions Act, 1988, is applicable only in respect of the property, held benami. However, in respect of the present Suit Property, there were no documents or evidence to show that Smt. Chanderwati held the Property as benami and the contention of the Plaintiff was thus,***accepted that it was exclusive property of Smt. Chanderwati, a fact, which is also admitted by the Defendants.***

52. The sole contention is whether the parties admittedly entered into the Family Settlement dated 10.10.2009. The only ground on which Family Settlement is challenged, is that this document required compulsory registration, as it created rights in the property for the first time and therefore, was *non-est* in law. Defendant No. 2 therefore, continued to be the exclusive owner of the Suit Property and thus, was competent to execute the Gift Deed dated 21.05.2018,in favour of Defendant No.1.

53. *The main issue for adjudication in the present Appeal, is:**whether the Family Arrangement dated 10.10.2009 required compulsory registration and dehors the registration, is not enforceable.***

54. The significance and the importance of a*Family Settlement* was highlighted in the case of <u>Mathuri Pullaiah vs. Maturi Narasimhamand Ors</u>., AIR 1966 SC 1836, wherein it was observed that a family arrangement

resolves family disputes, and that even disputes based upon ignorance of parties as to their rights, may afford a sufficient ground to sustain it.

55. Likewise, in the case of *Ram Charan Das vs. Girjanandini Devi And Ors*., (1965)3 SCR 841, the Apex Court observed that the consideration for such a family settlement, is the expectation that such a settlement will result in establishing or ensuring amity and goodwill amongst persons bearing relationship with one another.Thesettlement consisting of recognition of the right asserted by each other, cannot be permitted to be impeached thereafter.

56. In the case of *S. Shanmugam Pillai and Others vs. K. Shanmugam Pillai and Others,* (1973) 2 SCR 312, the importance of family settlement was again emphasized by observing that if it is in interest of family peaceand that the family members have settled their disputes amicably. Insuch circumstances, the Court would generally lean in favour of the family arrangement and would be reluctant to disturb the same.

57. *The sanctity of the family arrangement can therefore, never be questioned and once the parties have arrived at a settlement, the general tendency is to uphold such family settlements.*

58. The first aspect is to understand is what arrangement can be termed as family settlement. *Halsbury's Laws of England*, Vol. 17, Third Edition, defined a *family arrangement* as an agreement between members of the same family, intended to be generally and reasonably for the benefit of the family either by compromising doubtful or disputed rights or by preserving the family property or the peace and security of the family by avoiding litigation or by saving-its honour.... Family arrangements are governed by principles which are not applicable to dealings between strangers.

59. Further, <u>*Sahu Madho Das and Others vs. Pandit Mukand Ram and Another*</u>, AIR 1955 SC 481 explained the basic eligibility for parties to enter into a Family Settlement, as under:

> *"It is well settled that compromise or family arrangement is based on the assumption that there is an antecedent title of some sort in the parties and the agreement acknowledges and defines what that title is, each party relinquishing all claims to property other than that falling to his share and recognising the right of the others, as they had previously asserted it, to the portions allotted to them respectively.* ***That explains why no conveyance is required in these cases to pass the title from the one in whom it resides to the person receiving it under the family arrangement.*** *It is assumed that the title claimed by the person receiving the property, under the arrangement had* ***always resided in him*** *or her so far as the property falling to his or her share is concerned and* ***therefore no conveyance is necessary****."*

60. The aforesaid principles were analysed and upheld by the Supreme Court in the landmark Judgment of <u>*Kale and Others vs. Deputy Director of Consolidation and Ors*</u>., (1976) 3 SCC 119,wherein, it was observed that the object of such an arrangement is to protect the family from long drawn litigation and perpetual disputes, which affect the unity and solidarity of the family and create hatred and bad blood between various members of the family. However, the *bonafide* and propriety of a family arrangement has to be judged by the circumstances prevailing at the time when such settlement was made. The onus of proving the family settlement, lies solely on the person claiming that a family Agreement existed.

61. The Full Bench of Allahabad High Court in <u>*Ram Gopal vs. Tulshi Ram*</u>, AIR 1928 All. 641 (FB), observed that a family arrangement *could be oral* and if it is followed by a petition in Court containing a reference to the

arrangement and if the purpose was merely to inform the Court regarding the arrangement, no registration of the said Arrangement was necessary. In this connection, the Full Bench adumbrated the following propositions in answering the reference:

> "*(1) A family arrangement can be made orally.*
>
> *(2) Ifmade orally, there being no document, no question of registration arises.*
>
> *(3) If though it could have been made orally, it was in fact reduced to the form of a "document", registration (when the value is Rs. 100 and upwards) is necessary.*
>
> *(4) Whether the terms have been "reduced to the form of a document" is a question of fact in each case to be determined upon a consideration of the nature and phraseology of the writing and the circumstances in which and the purpose with which it was written.*
>
> *(5) If the terms were not "reduced to the form of a document", registration was not necessary (even though the value is Rs. 100 or upwards); and, while the writing cannot be used as a piece of evidence for what it may be worth, e.g. as corroborative of other evidence or as an admission of the transaction or as showing or explaining conduct.*
>
> *(6) If the terms were "reduced to the form of a document" and, though the value was Rs. 100 or upwards, it was not registered, the absence of registration makes the document inadmissible in evidence and is fatal to proof of the arrangement embodied in the document.*"

62. Thus, the Supreme Court in <u>*Kale and Others vs. Deputy Director of Consolidation and Ors(supra)*</u>created two categories of family settlements, one being oral settlement and the other being written settlements. It was held that the prior does not require registration however, the latter would be a

compulsorily registerable document. However, in the second category, an exception was carved out, i.e. if the Memorandum of Family Settlement was reduced to writing only for the purpose of record or for information of the court for making necessary mutation, then it would be exempt from registration as the Memorandum itself does not create or extinguish any rights in the immovable properties.

63. In Lieutenant Col. Gaj Singh Yadav vs. Satish Chander Yadav, 1999 (51) DRJ 240, it was explained that if a party had a share in the property, enlargement of such share by relinquishment or gift by the other defendant, would not require registration. It is only when a right in the property is created for the first time by a particular document, that it would require registration. Therefore, mischief of Section 49 of the Registration Act, 1908 would not fall on an oral settlement.

64. The Apex Court has analysed the effect of non-registration of a *Kharurnama* (**family arrangement recording past transaction**)in the case of *Korukonda Chalapathi Raov. Korukonda Annapurna Sampath Kumar,* 2021 SCC OnLine SC 847and opined that whether a document by itself 'affects', i.e., by itself creates, declares, limits or extinguishes rights in the immovable properties in question and it is found that the document merely records past transactions which have been entered into by the parties, and does not purport to by itself create, declare, assign, extinguish or limit right in properties, it would not attract Section 49(1)(a) of the Registration Act, 1908. ***Therefore, a mere recital of what has already taken place, cannot be held to declare any right and there would be no necessity of registering such a document.***

65. Similarly, in a recent judgement of <u>*K. Arumuga Velaiah (Supra)*</u> while emphasizing upon the distinction between Section 17(2) Clause (iv) and Clause (v) of the Registration Act. 1908, the Court observed that a document of partition which provides for effectuating a division of properties in future, would be exempt from registration. It was further crystallized that by virtue of Section 17(2) Clause (v) Registration Act 1908, any document which does not in itself create a right, title or interest in any immovable property ***but rather creates a right to obtain a subsequent document which when executed, would create a right in the property, the same does not require mandatory registration*.**

66. From the aforesaid Judgments, what emerges is, that if the parties *vide* an oral arrangement have agreed to a family settlement, but subsequently reduced it to writing for the posterity, the same does not require any registration.

67. This is demonstrated from the case of <u>*Sitala Baksh Singh and Others vs. Jang Bahadur Singh and Others*</u>, MANU/OU/0059/1933, wherein it was held that where a Revenue Court merely gave effect to the compromise, such compromise embodied in an Order of the Revenue Court and given effect to by the Revenue Court ordering mutation in accordance with the terms of the compromise, is only giving effect to a compromise, earlier arrived at between the parties and did not require registration.

68. Likewise, in the case of <u>*Smt. Kalawati vs. Sri Krlshna Prasad and Others*</u>, MANU/OU/0045/1943, similar facts were involved, where in an Order of mutation, theCourt merely stated the fact of the compromise having been arrived at between the parties and did not amount to a declaration of Will. It was held that it did not cause a change of legal

relation to the property and therefore, it did not declare any right in the property.

69. Likewise, in the case of <u>*Bakhtawar vs. Sunder Lal and Others*</u>, where Lindsay, J., speaking for the Division Bench observed as under:

> "*It is reasonable to assume that there was a bona fide dispute between the parties which was eventually composed each party recognizing an antecedent title in the other. I this view of the circumstances I am of opinion that there was no necessity to have this petition registered. It does not in my opinion purpose to create, assign, limit, extinguish or declare within the meaning of these expressions as used in S. 17(1)(b) of the Registration Act. It is merely a recital of fact by which the Court is informed that the parties have come to an arrangement.*"

70. Similarly the Patna High Court in <u>*Awadh Narain Singh and Others vs. Narain Mishra and Others*</u>, MANU/BH/0106/1962 : AIR 1962 Pat 400, pointed out that a compromise Petition not embodying any terms of agreement, but merely conveying to the Court that a family arrangement had already been arrived at between the parties, did not require registration and can be looked into for ascertaining the terms of family arrangement.

71. Therefore, it is abundantly explained and clear that an oral settlement, which has been arrived at a prior time, but recorded subsequently for record, does not require compulsory registration.

72. It is therefore, been well-settled in the light of the Judgments referred above that where there is a *bona fide* dispute between the parties, which is eventually compromised by each party recognizing an antecedent, title in the other, it is not required to be registered, as it does not purport to create, assign, limit, extinguish or declare within the meaning of these expressions, as used in Section 17(1)(b) of the Registration Act, 1908. It is merely a

recital of fact, by which the Court is informed that the parties have come to an arrangement.

73. In this context, it is also essential to consider the *Rule of Estoppel*, as the said Rule is a legal principle that prevents a person from arguing something contrary to a claim made or implied by their previous actions or statements.Thus, estoppel prevents a party from asserting rights or facts that are contrary to their previous statements, conduct, or commitments when it would be unjust to allow them to go back on their word. The key elements include:

a. *Representation or conduct by one party that leads the other party to believe in a certain state of affairs.*
b. *Reliance by the second party on this belief.*
c. *Detriment to the second party if the first party is allowed to deny the truth of the representation.*

74. The Supreme Court, in *S. Shanmugam Pillai and Ors. v. K. Sahnmugam Pillai and Ors*. (1973) 2 SCC 312, have empathized on the importance of equitable principles and stated that certain equitable principles such as estoppel, are not mere rules of evidence, but rather serve as a very important element in administration of justice and thus, the courts are hesitant in narrowing down the scope of the same as they have been liberally relied upon time and again to render justice.

75. While applying the *principle of estoppel* in the case of Family Settlements, the Supreme Court in *Kale and Ors.*(*Supra*)and *Thulasidhara*(*Supra*)has observed that the parties benefiting from the Family arrangement could not later challenge its validity.

76. Similarly, while relying upon the above judgments in the case of *Ravinder Kaur Grewal (Supra)*, the Supreme court emphasized that estoppel is an equitable doctrine aimed at preventing unfair advantage or detriment resulting from inconsistency in a party's claims or representations. It was observed that since the parties having acted upon the terms of a disputed Family settlement to the prejudice of the other party, it was not open to them to resile from the said arrangement and they were estopped from disowning the arrangement. ***It is noteworthy that the court observed that even in the event a family arrangement has not been registered, it would not prejudice its binding nature upon the members of the family and would continue to act as an estoppel to prevent members from revoking the family arrangement, if the members have acted upon it.***

77. Thus, it is no more *res integra* that the family settlement, emphasizing that such arrangements, even if oral **or unregistered,** should be binding if made *bona fide* and *acted upon.* Such arrangements would not require registration if the same itself does not create or extinguish any right, title or interest in any immovable property and rather merely create a right to obtain another document to enforce their rights. A family arrangement is thus,binding on the parties and operates as an estoppel and it precludes any of the parties who have taken advantage under the agreement from revoking or challenging the same.

78. Keeping in mind the aforesaid crystallized principles, the facts of present case may be considered.

79. The Family Settlement dated 10.10.2009 read as under:

> " *Today dated 10.10.2009, in the presence of Shri Vinod, Shri Kaushik, Shri Naresh, Shri Deepak, Shri Sonu @*

Sudarshan and Smt. Chandrawati the joint/mutual/collective property was distributed as follows:-

Share Sonu		*Share Deepak*	*Share Naresh*	*Share Vinod*
Bilandpur	*20,00,000*	*GT Road* *80,00,000*	*Panipat Office* *20,00,000*	*Office* *55,00,000*
	46,50,000	*50,00,000*	*36,00,000*	*41,10,000*
	45,00,000		*45,00,000*	
Total	*2,98,50,000*	*1,90,00,000*	*1,41,00,500*	*2,25,50,000*
	+84,87,000	*-23,62,500*	*-72,12,500*	*+ 1 1,37,500*
Given to Smt. Chandrawati - siraspur Gd. 1,00,00,000/-, *1000 sq. yds. Plus A/36 75,00,000/-* *1,75,00,000/-*				

As per shares each brother's share comes to 2,13,62,500/-. *As per above Sh. Sonu and Sh. Vinod have an excess share amount,* ***therefore they have to compensate Sh. Deepak and Sh. Naresh to complete and fulfill their aforesaid share amount from their own and every person is agreeable to the same.*** *The present decision has been taken in my presence (Risal Singh) with the consent of all the persons.*

Alipur Farm land has been kept as JOINT. For the maintenance of this farm minimum Rs.One lac is needed this time. Every member has to pay Rs.25,000/- each as his share for its maintenance and that amount will be spend only on the maintenance of Alipur farm We are all agreeable to the same."

80. From the bare perusal of the terms of the Family Settlement, it emerges that various properties belonging to the family members was put in

a common hotch-potch and thereafter, the share in respect of all was determined. Further, it was noted that Defendant Nos 3 and 4 had excess share amount and therefore, they had to compensate the Plaintiff and Defendant No. 1 for the same, in order to fulfil their aforesaid share amount from their own, to which, every person was agreeable. It further noted that the suit property, has been kept as joint, for which each family member had to contribute for its maintenance.

81. Reading of this Family Settlement, it emerges that the Settlement arrived at between the family members on 10.10.2009, wherein they agreed to divide their properties, in the manner stated therein. It was not a document, which was recording any prior settlement; *rather, it, for the first time, reflected the manner, in which the persons agreed to divide their shares in the property. It is evident that this document was creating or extinguishing rights of the parties in praesenti and not recording any prior oral settlement.* It also required certain acts to be done by the parties, to give effect to the terms of Settlement, *therefore, it being a document for the first time, creating or extinguishing rights of the parties in the properties, required compulsory registration.*

82. Another contention raised on behalf of the Plaintiff, is that even if the Family Arrangement dated 10.10.2009 was not registered,however, it does not bar the Court from considering this document for collateral purposes, as has been held in the Case of *P. Anjanappa (D) by L.Rs(supra).*

83. In the Case of *P. Anjanappa (D) by L.Rs(supra),* there was a Family Settlement entered between the parties. The Court referred to their subsequent conduct to conclude that though, the family arrangement may have required registration but the subsequent conduct reflected that they had

acted upon the Deed,which was a reflection of unequivocal declaration of their intention to bring disruption in the Joint Family and it constituted a partition.

84. It was observed that family arrangement recorded in writing, when relied upon only explains,how the parties thereafter held and enjoyed the properties and does not require compulsory registration for limited collateral purposes. Reference was made to *Amteshwar Anand vs. Virender Mohan Singh*, (2006) 1 SCC 148, wherein the validity of an assignment was questioned by the Appellantson the ground that two Agreements had notbeen registered. However, the submission was held untenable as Section 17(1) of the Registration Act, 1908, required under Clause (b) thereof, for registration of 'non-testamentary instruments which purport or operate tocreate, declare, assign, limit or extinguish, whether in present or in future, any right, title interest, whether vested or contingent, of the value of one hundredrupeesor more or in immovable property'. Sub-Section (2) of Section 17, creates an exception. One of which, is stated in Clause (i), which pertains to any composition deeds.

85. This aspect was explained in the Case of *Govind Ram vs. Madan Gopal*, AIR 1945 PC 74 that a composition deed was a transaction between the members of same family for the mutual benefit of other family members. It was not an Agreement that required Registration in any Act, in terms of Section 17(2) (i) of the Act.

86. It was further observed in the Case of *P. Anjanappa (D) by LRs* (supra), that the reality of disruption is tested by a cumulative assessment of conduct that includes separate possession, separate cultivation, separate residence,independent dealings with the lands allotted,and revenue

recordsthat consistently reflect such separation. An insistence on further partition as a pre-condition to infer disruption misdirectsinquiry, because the determinative question is whether the joint statusstood severed and subsequent enjoyment was separate. Tested on these principles, the said Agreement qualifies for collateral purpose. The long and consistent course of conduct that followed the Agreement confirms the disruption of the status since the date of entering into the Settlement. It was thus held that such a document coupled with the subsequent conduct, would not require compulsory registration.

87. In the present case, the facts are distinguishable because though,*vide* Family Arrangement dated 10.10.2009, the parties had agreed for division of the properties in a certain manner. Their subsequent conduct did not in any manner reflect that they had acted upon the Family Agreement. In fact, Defendant No. 2 continued to deal with the property as her exclusive property and eventually executed the Gift Deed in favour of Defendant No. 1. There is nothing on record to suggest that this Agreement was ever acted upon by the parties. Therefore, the Family Arrangement dated 10.10.2009, which required compulsory registration, is not admissible even for collateral purposes. The contention raised on behalf of the Appellant, therefore, does not serve him in any manner.

88. Therefore, learned District Judge rightly, held that this document was not admissible, since it was not a registered document and therefore, could not be given any effect or held to have made the Suit Property, i.e. Alipur Farm, as joint family property. The Suit Property was in the exclusive name of Defendant No.2 and it did not change its status to that of a joint property, by virtue of Family Arrangement dated 10.10.2009.

89. From the averments made in the Plaint itself, it was established that the Suit Property did not acquire a status of joint family property ***and Defendant No. 2 continued to be the exclusive owner of the SuitProperty*** and was thus, competent to execute the Gift Deed dated 21.05.2018,in favour of Defendant No.1.

90. Therefore, learned District Judge has rightly appreciated the facts and law and **rejected** the Suit filed by the Plaintiff under Order VII Rule 11 the CPC.

91. In view of the aforesaid discussion, there is no merit in the present **Appeal, which is hereby,dismissed,** along with pending Applications.

(NEENA BANSAL KRISHNA)
JUDGE

JUNE 10, 2026
R/N