



2026:DHC:6140-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Order reserved on: 03.07.2026***Order pronounced on: 31.07.2026******Order uploaded on: 31.07.2026***

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RFA(OS) 48/2025

PRAKASH CHANDER

.....Appellant

Through: Ms. Kaadambari Singh, Sr.
Adv. along with Mr. Atul
Kumar, Mr. Jayant Malik, Ms.
Shraddha Sharma and Ms.
Samkiti Jain, Advs.

versus

VINOD KUMARI BHALLA & ORS. & ORS.Respondents

Through: Mr. Amit Singh Chadha, Sr.
Adv. along with Mr. Naveen
Sharma, Adv. for R-1.

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RFA(OS) 58/2025

NISHA VATS

.....Appellant

Through: None.

versus

VINOD KUMARI BHALLA & ORS.Respondents

Through: Mr. Amit Singh Chadha, Sr.
Adv. along with Mr. Naveen
Sharma, Adv. for R-1.

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RFA(OS) 7/2026, CM APPLs. 10753/2026, 10755/2026,
10756/2026

PRAKASH CHANDER

.....Appellant

Through: Ms. Kaadambari, Sr. Adv. with
Ms. Shraddha Sharma, Ms.
Naimisha Pradhan and Ms.
Samkiti Jain, Advs.

versus

VINOD KUMARI BHALLA & ORSRespondents

Through: Mr. Amit Singh Chadha, Sr.
Adv. with Mr. Naveen Sharma



2026:DHC:6140-DB



and Mr. Aman Raghav, Advs.
for R-1.

+ RFA(OS) 9/2026, CM APPLs. 13174-13175/2026
NISHA VATSAppellant

Through: None.

versus

VINOD KUMARI BHALLA & ORSRespondents

Through: Mr. Amit Singh Chadha, Sr.
Adv. along with Mr. Naveen
Sharma, Adv. for R-1.
Mr. Shivam Ujjainwal, Adv. for
R-2(a) to (c) and R-3(a) to (c).

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. HARISH VAIDYANATHAN SHANKAR

ORDER

ANIL KSHETARPAL, J.:

CM APPL. 35246/2026*[For modification of order dated 10.10.2025]*
in RFA(OS) 48/2025

CM APPL. 35247/2026*[For modification of order dated 10.10.2025]*
in RFA(OS) 58/2025

1. By way of the present applications filed under Section 151 of the Code of Civil Procedure, 1908, the Appellants seek modification/clarification of the common order dated 10.10.2025, whereby the captioned Appeals, RFA(OS) 48/2025 and RFA(OS) 58/2025 were dismissed as withdrawn.

2. The Appeals had been preferred against the judgment and preliminary decree dated 22.05.2025 passed by the learned Single Judge in CS(OS) No. 55/2018. On 10.10.2025, after hearing the parties for some time, this Court passed the following common order:

"1. After some arguments, learned counsel representing the Appellants, on instruction from their respective Appellant, seek



2026:DHC:6140-DB



permission of the Court to withdraw the present Appeals in order to file an appropriate application before the learned Single Judge.

2. The present Appeals are accordingly dismissed as withdrawn. All pending applications stand closed.”

3. Pursuant thereto, the Appellants filed separate review petitions before the learned Single Judge. The said review petitions were dismissed by a common order dated 12.12.2025.

4. The Appellants thereafter instituted fresh appeals challenging the judgment and preliminary decree dated 22.05.2025 as well as the order dated 12.12.2025 passed in the review petitions. When the fresh appeals came up before the Coordinate Bench, a dispute arose between the parties regarding the interpretation and effect of the order dated 10.10.2025. Accordingly, *vide* order dated 30.04.2026, the matters were directed to be placed before this Bench.

5. Learned senior counsel for the Appellants submits that the earlier Appeals were not withdrawn with the intention of abandoning the challenge to the judgment and preliminary decree dated 22.05.2025. It is submitted that, during the hearing of the Appeals, certain grievances were raised concerning the proceedings conducted before the learned Single Judge. Since the learned Single Judge was better placed to consider those grievances in the first instance, the Appellants were permitted to withdraw the Appeals and approach the learned Single Judge.

6. It is further submitted that the Appellants acted upon the said course and filed review petitions. The Appellants contend that the order dated 10.10.2025 was understood to mean that, in the event of



2026:DHC:6140-DB



their not succeeding before the learned Single Judge, they would not be precluded from thereafter availing the appellate remedy. The present applications have accordingly been filed to place the said position beyond doubt.

7. Learned senior counsel appearing for Respondent No.1 opposes the applications. It is submitted that the Appeals were withdrawn after some arguments and that neither was liberty to institute fresh appeals sought nor was any such liberty granted. It is contended that, upon withdrawal of the Appeals, the judgment and preliminary decree dated 22.05.2025 attained finality and a vested right accrued in favour of the Respondents.

8. Learned senior counsel for Respondent No.1 has placed reliance upon the decisions of the Supreme Court in ***Upadhyay & Co. v. State of Uttar Pradesh and Others***, (1999) 1 SCC 81, and ***Vinod Kapoor v. State of Goa and Others***, (2012) 12 SCC 378, to contend that once a proceeding is withdrawn without liberty to institute a fresh proceeding against the same order, a subsequent challenge is not maintainable.

9. This Court has heard learned senior counsel for the parties and has perused the record.

10. At the outset, it is necessary to delineate the limited scope of the present proceedings. This Bench is not presently hearing the fresh Appeals instituted by the Appellants. Consequently, no opinion is called for on the maintainability of those Appeals, the question of limitation, the scope of the challenge raised therein, or the merits of the judgment and preliminary decree dated 22.05.2025 and the order



2026:DHC:6140-DB



dated 12.12.2025. The limited question before this Bench concerns the intended purport of the common order dated 10.10.2025 passed by this Bench.

11. A plain reading of the order dated 10.10.2025 shows that the Appeals were not withdrawn simpliciter. The order expressly recorded the purpose for which withdrawal was sought and permitted, namely, to enable the Appellants to file appropriate applications before the learned Single Judge. Thus, it is not a case of unconditional withdrawal of the First Appeals by the Appellants which results in absolutely foreclosing their right to file appeal.

12. During the hearing of the Appeals, the grievances urged by the Appellants included matters concerning the proceedings conducted before the learned Single Judge. It was in this backdrop that the Appellants were permitted to first place their grievances before the learned Single Judge. The withdrawal of the Appeals was thus part of the procedural course adopted for enabling the learned Single Judge to consider those grievances in the first instance.

13. It is settled that the right of appeal, where conferred by statute, is a substantive right. At the same time, such a right may be waived or abandoned by the party entitled to exercise it. The question in the present case, however, is whether the order dated 10.10.2025 was intended to record an unconditional and complete abandonment of all further remedies by the Appellants.

14. Having regard to the express purpose recorded in the order dated 10.10.2025, we are of the view that the withdrawal was not



2026:DHC:6140-DB



intended to foreclose the Appellants from availing such further remedies as might be available to them in law after the proceedings before the learned Single Judge had been concluded. The order was intended to require the Appellants to first approach the learned Single Judge, it was not intended to waive or extinguish the remedies which might otherwise be available thereafter.

15. The Appellants acted upon the course recorded in the order dated 10.10.2025 and filed review petitions before the learned Single Judge. In these circumstances, the omission to expressly state the legal position after disposal of those proceedings ought not to result in a consequence which was not intended while permitting withdrawal of the Appeals.

16. The decisions in ***Upadhyay & Co. (Supra)*** and ***Vinod Kapoor (Supra)*** reiterate the legal consequences which may ordinarily follow where a proceeding is withdrawn without reserving liberty to institute a fresh challenge. There can be no quarrel with the principles laid down therein. The present proceedings, however, stand on a distinct footing. The applications have been placed before us as the Bench which passed the order dated 10.10.2025, for clarification of the course intended by that order. Moreover, the order records that withdrawal was sought for pursuing a specified remedy before the learned Single Judge.

17. The clarification being issued by us neither creates an appellate remedy where none exists nor amounts to an adjudication upon the maintainability of the fresh appeals. It merely clarifies that the order



2026:DHC:6140-DB



dated 10.10.2025 was not intended, by itself, to foreclose such further remedy as may otherwise be available to the Appellants in accordance with law.

18. Accordingly, for removal of doubt, it is clarified that the withdrawal of the Appeals *vide* the order dated 10.10.2025 was for the purpose of enabling the Appellants to first pursue an appropriate remedy before the learned Single Judge, and was not intended to foreclose their right to avail such further remedy as may be available to them in law after disposal of the proceedings before the learned Single Judge. Modified order is being uploaded in this regard.

19. It is also clarified that we have expressed no opinion on whether the fresh Appeals instituted by the Appellants are otherwise maintainable or within limitation. All contentions available to the parties in the said Appeals, subject to the clarification issued above, are left open for consideration by the appropriate Bench seized of those Appeals.

20. The present applications are accordingly disposed of in the aforesaid terms.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

JULY 31, 2026

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