

**(2025) 12 DEL CK 0002**

**Delhi HC**

**Case No:** FAO(OS) No.101 Of 2024

Arya Orphanage Through Its  
President Sh Sudhir Kumar  
Gupta

APPELLANT

Vs

Mukti Dutta & Ors

RESPONDENT

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**Date of Decision:** Dec. 18, 2025

**Acts Referred:**

- Code of Civil Procedure, 1908- Order 7 Rule 11, Order 12 Rule 1A, Order 23 Rule 1
- Indian Succession Act, 1925- Section 263

**Hon'ble Judges:** Anil Kshetarpal, J; Harishvaidyanathanshankar, J

**Bench:** Division Bench

**Advocate:** A. S. Chandhiok, Archit Mishra, Digvijay Rai, Kunal Kalra, Rahul Mourya, Nitinjya Chaudhry, Ruchir Mishra, Mukesh Kumar Tiwari, Poonam Shukla, Reba Jena Mishra

**Final Decision:** Dismissed

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**Judgement**

Anil Kshetarpal, J

**REVIEW PET. 626/2025[Seeking review of the Judgment dated 29.08.2025]**

1. By way of the present review application, the Review Applicant/Appellant in FAO (OS) 101/2024 seeks review of the judgment dated 29.08.2025 passed by this Court. Vide the said judgment, this Court dismissed FAO (OS) 59/2018, filed by the Appellant, challenging the dismissal of its application under Order VII Rule 11 of the Code of Civil Procedure, 1908 [hereinafter referred to as CPC]. Additionally, the said judgment also disposed of FAO (OS) 101/2024, which was filed assailing the order passed on an application under Order XII Rule 1A of the CPC, whereby the LSJ permitted the transposition of Mr. Amit Bhushan, Defendant No. 2(iii) (Respondent No.2(iii) before this Court), as a Plaintiff in the civil suit.

2. Heard learned senior counsel for the Review Applicant [hereinafter referred to as RA] at length.

3. Learned senior counsel for the RA has made the following submissions:

3.1 It is argued that Late Mr. Lala Narain Dass, also known as Narain Dutta, was a perpetual leaseholder of the suit property and passed away intestate on 07.11.1950. During the lifetime of his widow, Mrs. Karma Devi, who died in 1964, the entire suit property got mutated in the name of their son, Mr. Krishan Dutta. However, the said mutation was never challenged by her during her lifetime.

3.2 Thereafter the Plaintiff, granddaughter of Mr. Krishan Dutta, filed an application under Order XXIII Rule 1 of the CPC, asserting that she is satisfied with the Letter of Administration granted on 18.11.1978 with respect of the Will dated 07.06.1976 executed by Mr. Krishan Dutta, and, accordingly, sought withdrawal of the suit. Learned senior counsel while placing reliance upon paragraph no.4 of the said application and the judgment of the Supreme Court in **Mahalaxmi Cooperative Housing Society Ltd. and Ors. vs. Ashabhai Atmaram Patel (Dead) Through LRs and Ors** (2013) 4 SCC 404., submits that transposition of the Defendant no. 2(iii) should not have been allowed.

3.3 It is further argued that the power to revoke or annul a Letter of Administration vests exclusively in the court under Section 263 of the Indian Succession Act, 1925 [hereinafter referred to as Act of 1925]. Hence, the civil suit itself was not maintainable.

3.4 The civil suit was instituted by the original Plaintiff in her capacity as the great granddaughter of late Sh. Lala Narain Dutta, seeking reliefs of declaration, partition, and permanent as well as mandatory injunction. Mr. Amit Bhushan, son of Sh. Vijay Bhushan, who in turn was the great grandson of late Mr. Lala Narain Dutta, filed an application seeking his transposition as a Plaintiff, which was allowed, notwithstanding the withdrawal of the suit by the original Plaintiff.

4. This Court has considered the arguments advanced by the learned senior counsel for the RA. However, this Court does not find itself in agreement with the submissions advanced, for the reasons elaborated hereinafter.

5. It is well settled that mutation entries of properties in the revenue records are primarily maintained for fiscal and administrative purposes and do not confer, extinguish, or determine ownership or title over such an immoveable property. It is also to be noted that, while a perpetual lease may not be construed as conferring absolute title or ownership, nevertheless, it undeniably creates a legally enforceable interest in immoveable property.

5.1 Moreover, at the stage of consideration under Order VII Rule 11 of the CPC, the Court is merely confined to an examination of the averments contained in the plaint alone. In cases such as the present, which involve determination of complex issues,

any conclusion can be arrived at only after a full and comprehensive adjudication of the dispute after the parties have led their respective evidence. As such, the plaint cannot be rejected at the threshold. Likewise, the acceptance of the Letter of Administration dated 08.11.1978 by the original Plaintiff cannot, by itself, amount to a valid ground for rejection of the plaint, since the consequential effects of such acceptance are matters to be examined by the competent Court while finally deciding the suit.

5.2 Similarly, the reliance placed by learned senior counsel for the RA on Section 263 of the Act of 1925, is also misplaced. The aforesaid provision merely provides for the circumstances under which a Letter of Administration may be revoked or annulled for just cause by a competent court. This provision does not operate as a bar to the institution or continuation of a civil suit raising issues which may incidentally relate to succession or title.

6. In matters covering complex and intricate issues pertaining to succession, title and competing claims of parties, it is neither advisable nor prudent to non-suit a party at the preliminary stage by rejecting the plaint under Order VII Rule 11 of the CPC. Such complex issues, require the Court to permit the parties to lead evidence before adjudicating the issues conclusively.

7. Moreover, it is pertinent to note that in paragraph no.36 of the judgment dated 29.08.2025, this Court, while dismissing FAO (OS) 59/2018 and FAO (OS) 101/2024, has already observed that the suit shall be decided uninfluenced by any observations made by this Court. Accordingly, the RA is at liberty to raise all such objections available in law before the competent court at the appropriate stage.

8. Lastly, the judgment in **Mahalaxmi Cooperative Housing** (Supra), as relied upon by the learned senior counsel for RA, is distinguishable on the facts and circumstances of the present case, since it is not rendered in the context of the Order VII Rule 11 of the CPC. It does not lay down any proposition warranting rejection of the plaint at the threshold in cases such as the present and, therefore, is not applicable to the present case.

9. In view of the foregoing discussion, this Court finds no merit in the present review application, and the same is accordingly dismissed.