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

\+ W.P.(C) 956/2025

HEENA & ORS. .....Petitioners

Through: Mr. Raja Choudhary, Mr. Sanyam Jain, Mr. Japdeep Singh Chahal, Mr. Amit Kr. Diwakar and Mr. Rahul Patel, Advocates.

versus

THE STATE OF NCT OF DELHI & ANR. .....Respondents

Through: Mr. Anuj Aggarwal, ASC and Mr. Udit Malik, ASC along with Mr. Yash Upadhyay, Mr. Siddhant Dutt and Ms. Ishita Panday, Ms. Rima Rao and Ms. Palak Sharma, Advocates for GNCTD.

Mr. Vikrant N. Goyal, Advocate along with Mr. Nitin Chandra, Advocates for UOI.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% 24.01.2025

1. The petitioners are family member of Sumit @ Mannu who tragically committed suicide on 22.01.2025. The petitioner no.1 is the sister and the petitioner nos.2 and 3 are the parents of the deceased.

2. The present petition seeks a direction that the deceased's semen be preserved through the method of Postmortem Sperm Retrieval (PMSR), a process allowing retrieval of viable sperm from a deceased individual for potential future use in Assisted Reproductive Therapy (ART).

3. Reliance is placed on the judgment rendered by this Court in the case

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of ***Gurvinder Singh & Anr. Versus Government of NCT of Delhi and Ors.*** in W.P.(C) 15159/2021. It has been held therein that the semen sample constitutes property under Indian law. It was observed by the Court that the term 'property' under Indian jurisprudence includes both tangible and intangible assets encompassing the estate of the deceased.

4. Attention is also drawn to the following observations of the said judgment :-

> *"108. Under Indian law, 'property' includes both tangible and intangible property. The estate of a deceased would also be included in the term 'property'. The meaning and the ambit of the property has been discussed, and laid down in several judicial decisions under different statutes. The following are the various kinds of properties recognized in law:*
> *i. Every species of valuable rights and interest is property.*
> *ii. Ownership and exclusive right to a thing including a right to use, possess and dispose is a property.*
> *iii. Anything which can be subject of ownership is property or has an exchangeable value.*
> *iv. A chose in action is property.*
> *v. A position in a religious endowment would constitute property, though, no inheritable.*
> *vi. Right of recovery of money is also property.*
> *vii. Any protected right or bundle of rights is a property.*
> *viii. Property could be either abstract or concrete.*
> *ix. Any proprietary rights over a particular thing would constitute property.*
> *x. Rights of maintenance in property.*
> *xi. Any interest in a commercial or industrial undertaking is a property.*
> *xii. Property would include both corporeal and non-corporeal rights.*
>
> *xxx xxx xxx*
>
> *143. Thus, in the opinion of this Court, under the prevailing Indian law,* ***there is no prohibition against posthumous reproduction if the consent of the sperm owner or egg owner can be demonstrated.*** *If the deceased had been married and had a spouse, the issues would not have been as complex. In the absence of a spouse, the question arises: is there any prohibition on posthumous reproduction under the existing law? The answer is clearly in the negative. In the absence of any such prohibition, this Court is unable to read a restriction where none exists."*

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5. Issue notice.

6. Learned counsel, as aforesaid, accept notice on behalf of the respondents.

7. Given the circumstances set out in the petition and the above submissions of the learned counsel for the petitioners, and considering that the PMSR procedure would be efficacious only if it is performed expeditiously, this Court accedes to the request of the petitioner for performing the procedure on the body of the deceased.

8. Learned counsel for the concerned Hospital i.e. the respondent no.2 submits that it does not have the wherewithal to perform the procedure. In the circumstances, at the request of learned counsel for the petitioner, the respondent no. 2 hospital is directed to endeavour to arrange for the PMSR procedure to be performed through any other hospital which is equipped to do so, at the risk and cost of the petitioners. It is directed accordingly. The retrieved sperm shall be preserved by the Hospital where the procedure is performed, in accordance with the standard procedures. The same shall be subject to further orders in the writ petition.

9. It is made clear that the above directions have been passed at the request of learned counsel for the petitioner, in view of the urgency of the matter.

10. List on 08.07.2025.

SACHIN DATTA, J

JANUARY 24, 2025/*r*

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