

Rare but vital: Living will concept explained after Harish Rana verdict—Courtesy BS

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The Supreme Court's decision to allow the withdrawal of life-sustaining treatment for Harish Rana, a Ghaziabad resident in a vegetative state for over a decade, highlighted a rare but legally complex dilemma: How to honour a patient's dignity when they can no longer speak for themselves. While cases as extreme as Rana's are infrequent, the ruling has reignited the conversation around the "living will," a preventive legal tool that remains largely underutilised in India.

A living will, formally known as an advance medical directive, allows a person to record their preferences about medical treatment if they later become unable to communicate.

Legal experts say the ruling does not change the law but clarifies how the existing framework works in practice.

"The Supreme Court's ruling in the Harish Rana case does not establish a new rule on living wills but explains how the passive euthanasia framework functions in the absence of an advance directive," said Ankit Rajgarhia, designate partner at Bahuguna Law Associates. He noted that courts can permit withdrawal of life-sustaining treatment when medical boards confirm that recovery is unlikely.

Similarly, Shaishavi Kadakia, partner at Cyril Amarchand Mangaldas, said the judgment reiterates the guidelines laid down in Common Cause rulings. If both the primary and secondary medical boards certify withdrawal of treatment, "there is no further requirement for any court intervention, except in limited circumstances," she said.

Family dilemma

In India, most end-of-life decisions are taken without a living will, placing families in an emotionally and legally difficult position.

"End-of-life decisions are often taken in the absence of a formally recorded patient directive, leaving families and doctors to make emotionally and legally challenging decisions," Rajgarhia said.

Manu Tiwari, senior associate at SKV Law Offices, said public awareness about living wills is limited. Families often act "reactively at moments of crisis rather than through prior deliberation," he said.

Suvigya Awasthy, partner at PSL Advocates & Solicitors, said the lack of awareness means families face emotional and financial strain during prolonged treatment.

When should people consider a living will?

Experts say adults should not wait until illness strikes.

“Every adult should consider making a living will, irrespective of age, because unforeseen circumstances can occur at any time,” Kadakia said.

According to Alay Razvi, managing partner at Accord Juris, individuals should clearly specify situations where life support should be withheld and nominate a trusted person to communicate with doctors.

Tiwari added that clarity is critical because hospitals and medical boards rely strictly on written instructions while applying safeguards.

Ultimately, Rajgarhia said, a living will helps ensure that decisions about life-sustaining treatment reflect the patient’s own wishes rather than leaving families to decide during moments of crisis.
