



2026:DHC:4527



\$~

\*

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

*Reserved on: 23<sup>rd</sup> March, 2026*

*Pronounced on: 20<sup>th</sup> May, 2026*

+

CM(M) 1776/2023 & CM APPL. 56421/2023, 17994-95/2026

ANJALI JAYANT @ LAXMI

.....Petitioner

Through: Mr. Bhuvan Jayant, Ms. Maitri Goel,  
Ms. Prachi Goel, Mr. Varun Ranjan  
and Mr. Rittik Pandey, Advocates.

versus

KUSUM SINGH & ANR.

.....Respondents

Through: Mr. Gaurav Dubey, Advocate for R-1.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT SHARMA**

**JUDGMENT**

**AMIT SHARMA, J.**

1. The present petition under Article 227 of the Constitution of India, 1950, seeks following prayers: -

“i. Set aside the impugned order dated 26.07.2023 passed by the Ld. Senior Civil Judge, Shahdara District, Karkardooma Courts, Delhi in case titled 'Kusum Singh vs. Vikas Singh & Anrs.' bearing CS No. 24/2023 and transfer the case CS No. 24/2023 titled as 'Kusum Singh vs. Vikas Singh & Anrs.' to the concerned Family Court, Shahdara District, Karkardooma Courts, Delhi and



2026:DHC:4527



ii. Pass such order or orders as this Hon'ble Court may deem fit and proper under the given facts and circumstances of the case in the interest of justice.”

2. The present petition assails the impugned order dated 26.07.2023 passed by learned Civil Judge, Shahdara District, Karkardooma Courts in **CS No. 24/2023**, whereby application under Order VII Rule 11 of the CPC filed on behalf of the present petitioner/defendant No.2 was dismissed and the case was put up for completion of pleadings and further proceedings.

3. The subject suit, **CS 24/2023**, was filed on behalf of respondent no. 1/plaintiff seeking mandatory and permanent injunction along with *mesne* profits with *pendente lite* and future interest against present petitioner and respondent no. 2/defendant No.1. It is pertinent to note that respondent No.1 is mother-in-law of present petitioner, and mother of respondent No.2. In the subject suit, an application was preferred by the petitioner under Order VII Rule 11 read with Order VII Rule 10 read with Section 151 of the CPC for dismissal of the suit filed on behalf of respondent No.1.

4. At the outset, it is appropriate to refer to the factual background between the parties. The marriage of the petitioner was solemnized with respondent No.2 on 20.02.2018 as per Hindu rites and rituals. It is stated that in December 2020, the respondents herein purchased a new house, A-12, Gali No.4, Bihari Colony, Shahdara, Delhi-32, in view of which respondent No.2 took Rs.5,00,000/- Lakhs from the father of the petitioner and loan from his office. On 12.12.2022, respondent No.2 file a divorce petition, Case



2026:DHC:4527



No.2180/2022, seeking divorce from the petitioner and same is pending and adjudication before the Court of learned principal Judge, Family Court, Shahdara, Karkardooma Courts, Delhi. It is further stated that respondent No.1 in connivance with respondent No.2 filed the aforesaid civil suit seeking a decree of permanent and mandatory injunction. It is further stated that respondent No.2 had brutally harassed and forced the petitioner to leave her matrimonial house. A FIR No.44/2023, under Sections 323/341/506 of the IPC, was also lodged at the instance of present petitioner against respondent No.1 at PS Farsh Bazar. On 23.05.2023, the petitioner filed a maintenance petition, MT No.256/2023, under Section 125 of the CrPC seeking maintenance for her daughters and herself. The petitioner had also filed a complaint, CT No.256/2023, against the respondents under Section 12 of the Protection of Women from Domestic Violence Act.

5. It is the case of the petitioner that suit filed by respondent No.1 raises disputes which arise out of matrimonial relationship between petitioner and respondent No.2. It is contended that exclusive jurisdiction to adjudicate upon the aforesaid suit would lie with the learned Family Court as per Section 7(1)(d) and Section 8 of Family Court Act, 1984, as the cause of action in the said suit arises out of marital relationship between the parties. Reliance has been placed by learned counsel for the petitioner in support of latter's case on the judgment passed by learned Coordinate Bench of this Court in **Avneet Kaur v. Sadhu Singh & Anr.**<sup>1</sup> in support of this contention.

---

<sup>1</sup> 2024 SCC OnLine Del 4815



2026:DHC:4527



6. In view of the aforesaid observations, it is further contended that learned Civil Judge had erred in observing that the cause of action of respondent No.1 to institute the subject suit does not arise from the circumstances arising out of marital relationship and rather the same is based upon her ownership in the suit property. It is further submitted that learned Civil Court has no jurisdiction to entertain and try the subject suit instituted by respondent No.1 as the same arises out of the marital relationship between the parties, and thus, is to be dismissed/returned and be tried before the concerned Family Court of competent jurisdiction. It is further submitted that the subject suit is bad for non-joinder of necessary parties, inasmuch as, certain prayers of injunctions have been sought by respondent no.1/plaintiff against father and brother of the present petitioner, who have not been arrayed as parties in the subject suit by respondent No.1. It is, therefore, prayed that impugned order dated 26.07.2023 be set aside and the present subject suit be transferred to the learned Family Court of competent jurisdiction.

7. *Per contra*, learned counsel for respondent No.1 has submitted that the learned Civil Judge has rightly dismissed the application under Order VII Rule 11 of the CPC filed on behalf of the petitioner/defendant No.2 as the cause of action to institute the subject suit had accrued in favour of respondent No.1/plaintiff on account of her being owner of the suit property. It is further submitted that in the plaint it has been averred that the petitioner and respondent No.2/her husband are merely licensees in the suit property and therefore, suit for mandatory injunction is maintainable before an ordinary civil Court. Reliance has been placed on the judgment passed by Hon'ble



2026:DHC:4527



Supreme Court in **Satish Chander Ahuja v. Sneha Ahuja**<sup>2</sup>, to contend that a suit for mandatory and permanent injunction is maintainable before a civil court and such court is to determine the issues in civil proceedings on the basis of evidence led by the parties before civil court even in case of shared household/matrimonial home of the parties.

8. In view of the aforesaid, it is submitted that the suit instituted by respondent No.1 before civil court is maintainable as the reliefs prayed in the said suit is based on the claim of ownership of respondent No.1 over the subject property and does not emerge from circumstances arising out of matrimonial relationship. Thus, the learned Civil Judge, *vide* the impugned order dated 26.07.2023, had rightly dismissed the application under Order VII Rule 11 of the CPC filed by the petitioner and same does not require any interference.

9. Heard learned counsels for parties and perused the records.

10. Learned Division Bench of this Court in **Geeta Anand v. Tanya Arjun & Anr.**<sup>3</sup>, was dealing with following reference forwarded by learned Single Judge of this Court noticing a situation of conflict of opinion regarding jurisdiction of the Family Courts vis-à-vis Civil Courts as to certain kinds of matrimonial disputes propounded in **Manita Khurana v. Indira Khurana**<sup>4</sup>,

---

<sup>2</sup> (2021) 1 SCC 414: 2020 SCC OnLine SC 841

<sup>3</sup> 2024 SCC OnLine Del 2327: (2024) 309 DLT 333 (DB): 2024: DHC:2637-DB

<sup>4</sup> 2010 SCC OnLine Del 225



2026:DHC:4527



**Meena Kapoor v. Ayushi Rawal<sup>5</sup>**, on the one hand, and **Avneet Kaur v. Sadhu Singh<sup>6</sup>**: -

“1. \*\*\*\*

\*\*\*\*

\*\*\*\*

(a) Whether a suit for possession/injunction filed by the in-laws of the defendant or either of them, claiming themselves or either of them to be the exclusive owner of the property of which the possession is sought or with respect to which injunction is prayed for from or against the defendant daughter-in-law, is to be tried exclusively by the Family Court established under the Family Courts Act, and the jurisdiction of the civil court is barred?

(b) Whether the impleadment or non-impleadment of the husband of the defendant son of the plaintiff has any effect on the maintainability of such a suit before a civil court?”

**11.** While answering the aforesaid reference, learned Division Bench of this Court had observed and held as under: -

“**42.** Thus, in our considered opinion, the question whether the claim laid before the Family Court or the civil court falls within the ambit of the expression “in circumstances arising out of marital relationship” must be examined and answered on an identification of the foundation of the claim, the underlying basis for the institution of the suit or the proceedings. Thus, there must be an intrinsic and unwavering connection between the proceeding and the marital relationship. This would necessarily entail the court analysing the cause of action and its relation with the marital relationship—the interrelation and interdependence between the two being determinative of the question. **An assertion of a particular suit or proceeding being liable to be tried exclusively by the Family Court would succeed only if it is established that there is a direct nexus between the “cause of action” and the “marital relationship”. A cause of action which is shown to exist independent of the marital relationship would clearly take the matter outside the purview of the Family Court.** What needs to be emphasised is that a

---

<sup>5</sup> 2020 SCC OnLine Del 2481

<sup>6</sup> 2024 SCC OnLine Del 4815



matter would fall under the purview of Family Court only where the circumstances have a direct bearing on the marriage. It is not the relationship of the various parties which could be said to be conclusive. **What needs to be ascertained and identified is the fundamental basis for the institution of the action. That underlying basis must have an ineffaceable link to the marital relationship. The marital relationship must constitute the point of origin for the action in order to bring it under the exclusive jurisdiction of the Family Courts.**

\*\*\*

\*\*\*

\*\*\*

*Answering the reference*

44. Accordingly, the present reference is answered as under:

(a) Whether a suit for possession/injunction filed by the in-laws of the defendant or either of them, claiming themselves or either of them to be the exclusive owner of the property of which the possession is sought or with respect to which injunction is prayed for from or against the defendant daughter-in-law, is to be tried exclusively by the Family Court established under the Act, and the jurisdiction of the civil court is barred?

Answer to question (a):

**Each of the categories under Section 7(1)(a) of the Act are undoubtedly civil in nature. Since the principal question therein relates to a civil right, there is no gainsaying that when claim is made about ownership rights and relief is sought in the nature of possession or injunction and/or damages, such legal rights are to be considered de hors the matrimonial relationship. The proprietorship rights or ownership rights to immovable property are not integral to maintaining the matrimonial relationship. Such rights may be claimed as against a third person or anyone in the family or for that matter somebody connected through matrimonial relationship.**

**Indeed, when it comes to a dispute as between mother-in-law and/or father-in-law on the one side and their estranged daughter-in-law on the other side, the claim of proprietorship or ownership of a property and thereby seeking relief in the nature of possession**



**and/or injunction by its very nature incidentally indicates a matrimonial relationship, but such relationship is not a foundational fact so as to lay a claim. Such relationship is not at the core of the dispute but exists independently in civil law, and thus, the Family Courts do not exercise exclusive jurisdiction over such disputes and as an inevitable corollary the jurisdiction of civil courts is not barred.**

- (b) Whether the impleadment or non-impleadment of the husband or the defendant son of the plaintiff has an effect on the maintainability of such a suit before a civil court?

Answer to question (b):

In light of our answer to question (a), the answer to this question would necessarily have to be in the negative. The mere impleadment or non-impleadment of the husband or the defendant son of the plaintiff would not be determinative of the question relating to the jurisdiction of the Family Court. The joinder or non-joinder of parties would have to be considered in light of the plethora of case law which already exists on that issue. Ultimately and irrespective of whether a husband is joined or not, the jurisdiction of the Family Court would have to be ascertained based on the cause of action and whether that is founded on the marital relationship or has a mere casual or incidental connection to the cause.

**45.** We find ourselves unable to either subscribe or concur with the view expressed in *Avneet Kaur case*<sup>3</sup> for if the view as expressed in *Avneet Kaur case*<sup>3</sup> were to be accepted, it would clearly amount to an incorrect interpretation and understanding of the subject provision and the expression “circumstances arising out of marital relationship”. The said decision, in our considered opinion, lays out the contours of that expression too broadly and fails to accord due consideration to the facet of “cause of action”, which is of seminal importance. Thus, the said judgment stands overruled. We find ourselves in agreement with the views expressed in *Manita Khurana case*<sup>1</sup> and *Meena Kapoor case*<sup>2</sup>.”

**(emphasis supplied)**



2026:DHC:4527



Thus, learned Division Bench expressly overruled the judgment in **Avneet Kaur (supra)** which has been relied upon by learned counsel for the petitioner.

**12.** Whether the subject proceedings satisfy the test provided by learned Division Bench, this Court has to examine the nature of the suit and averments made therein. In the suit, **CS No.24/2023**, instituted on behalf of respondent No.1 with respect to cause of action following averments were made: -

“3. That the defendant No 1 namely Vikas is the eldest Son of the Plaintiff and was married to the Defendant No 2 being Anjali Jayant in the year 2018. The plaintiff has only allowed them as licensee to reside at the second floor of the property bearing No A-12, Gali No 4, Bihari colony, Delhi-32 as mentioned above and the same has been a self-acquired property of her in which she has shifted in the month of December 2020.

\*\*\*\*

\*\*\*\*

\*\*\*\*

18. That the cause of action to file the present suit has arisen in the year Dec 2020 when the plaintiff has shifted in the suit property and allowed the defendants to reside in the same as licensee and it arose on various dates when illegal threats were given by defendant No 2 and her relatives including her father to transfer the property in name of defendant No 2 and in alternate be ready to face dire consequences including false criminal cases. It further arose in the month of Sep 2022 when brother of the defendant No 2 without any intimation came to the house of the plaintiff with two persons looking like goons whose name later disclosed as some Bubl Singh and threatened the plaintiff that she should either give the property to Defendant No 2, or else she will be implicated in cases and will have to go Jail for no reasons. It also arose on 4th Nov, 5th Nov, 20th Nov and 21st Nov 2022, Bhuwan brother of the defendant no 2 has sent derogatory, false and threatening messages to the plaintiff. It also arose on various dates including 14/12/ 2022, when the father of the defendant no 2 along with her uncle and



2026:DHC:4527



aunty, visited the office of the plaintiff and despite her request not to It further arose on when the license of the defendants was terminated vide legal notice dated 23/ 12/2022, which was duly served upon them. The cause of action has also arisen during events of 14th to 18th jan 2023 as mentioned above The cause of action is still continuing as the defendant even after the termination of the licence have not vacated the suit property. And now having no alternate the present suit is being filed on the basis of above causes of action.”

**13.** In the plaint filed on behalf of respondent No.1, it was averred that she the is owner and in possession of the property bearing No. A-12, Gali No. 4, Bihari Colony, Delhi-110032 and is a widow lady dependent over her small income being derived by working as an attendant in BHEL Lodhi Road, Delhi. Respondent No.1 has two sons, and a daughter. It was further stated that the aforesaid property is her self-acquired property in which she and other family members had shifted in December 2020. It was further stated that on 14.01.2023, petitioner’s father alongwith 20 other people had forcefully tried to break into house of respondent No.1 without her consent and permission, and that she was abused. Thereafter, it was agreed that petitioner and her husband (respondent no. 2) will move out of the aforesaid house for the peace of the family. It was further stated that petitioner’s father alongwith her brother was constantly trying to pressurize and harass respondent no. 1 and were trying to take possession of her house. It was further stated that on 17.01.2023, after the respondent no. 1 left for her office, relatives of petitioner again charged at her house without knowledge and filed a false complaint. It was alleged that Priyanka Jayant entered and took Viyona (younger daughter), and Ravi Kumar took Maayra, and petitioner left the house at 11:38 AM with all gold jewellery in her purse with her family to the police station by locking



2026:DHC:4527



second floor and she also took the keys with her, and in police station, petitioner refused to hand over the keys of 2<sup>nd</sup> floor. It is further stated that on 18.01.2023, a call was received from Police Station Farsh Bazar and respondent no.1 and her family was intimated that petitioner had requested SHO to take her and her children's clothes under supervision of the IO and a lady constable to which respondent no. 1 agreed and accepted the request. Thereafter, at 20:47 petitioner came with her brother alongwith police personnel and took all her items under supervision of police and everything was video recorded over phone and list of items was prepared which was signed by both the parties. Thereafter, petitioner, on repeated request made by the police officials present at the spot, returned the keys of second floor and left with all the belongings. It was further stated that the petitioner had left the house with her sweet free will, and the petitioner (defendant No.2) and her husband had not permanently vacated the property after service of notice and termination of license.

**14.** At this stage, it is appropriate to refer to the reliefs sought by respondent No.1 in the subject suit, which read as under: -

“a. pass a decree of mandatory injunction in favour of plaintiff and against the defendants thereby directing the defendants to permanently vacate the second floor of the property bearing A- 12, Gali No 4, Bihari colony, Delhi-32 and hand over the peaceful and vacant possession of the same.

b. pass a decree of permanent injunction in favour of plaintiff and against the defendants thereby restraining them, their agents allies, friends, servants relatives and specially the in laws including the lather in law, brother in law of Defendant No 1 from entering the property of



2026:DHC:4527



the plaintiff being A-12, Gali No 4, Bihari colony, Delhi-32 or from her office at Bharat Heavy Electricals Limited ( BHEL), H6RH+F4P, Industry Sector, Integrated Office Complex, Lodhi Road, New Delhi, 110003 or from making a call or Sendin8 her any message or wts up at her mobile number, 91-9910167690.

C. pass a decree of permanent injunction in favour of plaintiff and against the defendant no 2 thereby restraining her, her agents allies, friends, servants relatives and specially the in laws including the father in law, brother in law of Defendant No 1 from entering the property of the plaintiff being A-12, Gali No 4, Bihari colony, Delhi-32 or from her office at Bharat Heavy Electricals Limited BHEL), H6RH+F4P, Industry Sector, Integrated Complex, Lodhi Road, New Delhi, 1 10003 or from making a call or sending her any message or wts up at her mobile number, 91-9910167690.

d. Pass a decree of Rs. 15,000/- per month for pendente-lite and future mesne profits in favour of the plaintiff and against the defendants.

e. Any such further order or orders. which this Hon'ble Court may deem fit and proper in the facts and Circumstances of the case, may be passed in favor of the plaintiffs and against the defendants.”

**15.** Perusal of the aforesaid averments made in the plaint shows that the aforesaid suit has been instituted by respondent No.1 in her capacity being owner in possession of the subject property, being A-12, Gali No.4, Bihari Colony, Delhi-32, which she claims to be her self-acquired property. As per averments made in the plaint, the cause of action to institute the subject suit by respondent No.1 is stated to be the alleged threats extended by the petitioner and her relatives to respondent No.1, and the sequence of events having transpired between 14.01.2023 to 18.01.2023. Respondent No.1 has sought reliefs of mandatory and permanent injunction against the petitioner and respondent No.2-her husband in the subject suit. Her right to seek such



2026:DHC:4527



reliefs, as noted hereinbefore, arises out of her claim of ownership over the subject property, and exists independent of ‘circumstances arising out of a marital relationship’. Thus, marital relationship, as held in **Geeta Anand** (*supra*) is not the foundational fact of her claim in the suit. It is, in fact, her proprietary rights over the subject property.

**16.** In the application under Order VII Rule 11 read with Order VII Rule 10 read with Section 151 of the CPC filed on behalf of the petitioner seeking dismissal of the subject suit, it is the case of the petitioner that the subject suit is arising out of a marital relationship between the petitioner and respondent No.2 (her husband) on the one hand, and respondent No.1 (her mother-in-law) on the other hand. It was further stated that respondent No.1 and her son have estranged relationship with the petitioner, and since December 2020, the petitioner is residing at the aforesaid property and the same is her ‘shared household’ in terms of Section 2(s) of the Protection of Women from Domestic Violence Act, 2005. It was further stated that respondents have, on 17.01.2023 forcefully, turned out the petitioner and her two minor daughters from her matrimonial home, and she had taken away only clothes and basic necessity goods from her shared household. It was further stated that other valuables, *istridhan*, goods and jewellery of the petitioner and her daughters are still lying there at the shared household. It was further stated that respondents are in collusion with each other and respondent No.1 had filed the false suit before learned Civil Court. It was further stated that respondent No.1 had falsely stated that the petitioner had left her matrimonial home with her sweet will and all her belongings. It was further the case of the petitioner



2026:DHC:4527



that learned Civil Court is not having territorial jurisdiction to entertain the subject suit as no cause of action had arisen within jurisdiction of said Court. It was further stated that in the subject suit, respondent No.1 is seeking injunction to restrain the petitioner and her husband from entering her office situated at Integrated Office Complex Lodhi Road, New Delhi, which is not situated within the territorial jurisdiction of the said Court. It was further stated that as per respondent No.1's own case, petitioner is not residing within the jurisdiction of said Court, and therefore, no injunction could be granted in favour of respondent No.1.

17. Perusal of the aforesaid averments made in the application under Order VII Rule 11 of the CPC shows that the ownership of respondent No.1 over the subject property is not in dispute. The marriage between the petitioner and her husband/respondent No.2 was solemnized on 20.02.2018. The parties were earlier residing together, and in December 2020, they had shifted to the subject property, which is claimed to be self-acquired by respondent No.1/plaintiff. Thus, in such circumstances, the right of respondent No.1 to seek mandatory and permanent injunction cannot be stated to be 'circumstances arising out of a marital relationship' in terms of Section 7(1) Explanation (c) of the Family Courts Act, 1984.

18. In **Geeta Anand (supra)**, learned Division Bench referred to a judgment of Hon'ble High Court of Kerala at Ernakulam in **Mini & Ors. v. Sivaraman & Anr.**<sup>7</sup>. In the said judgment, while dealing with an appeal

---

<sup>7</sup> 2020 SCC OnLine Ker 4538



2026:DHC:4527



against the order passed by learned Family Court in a suit for injunction filed by the father-in-law against the daughter-in-law holding that it has jurisdiction since the said suit is not based on ‘circumstances arising out of a marital relationship’, had observed and held as under: -

“13. With the broad propositions of law laid down in the above case, it is necessary to answer the following questions in our quest to identify the forum for adjudicating the lis under consideration. **(1) Is there a suit or a proceeding? (2) Is the relief sought for in the suit or proceeding one for an injunction or order? (3) Has the suit or proceeding stemmed from circumstances arising out of a marital relationship?** If the answer to the above questions are all in the affirmative, then the Family Court alone has the jurisdiction.

14. It needs no explication to answer the first two questions. In the facts of the case, the answers are in the affirmative. **As far as the answer to the third question is concerned, it is relevant to advert to the fact that the property involved in the suit does not belong to any of the parties to a marriage. It is the absolute property of the 1st plaintiff. In other words, the scheduled property, is the proprietary right of the 1st plaintiff. The said proprietary right of the 1st plaintiff cannot be a circumstance that arises out of a marital relationship. Plaintiffs are enforcing their proprietary right. Cause of action is stated to be the forcible eviction of plaintiffs on 6.12.2011. Enforcement of the proprietary right of the 1st plaintiff over any person is not a circumstance arising out of a marital relationship, merely because the person sought to be proceeded against happens to be the daughter-in-law and grandchildren. It is also apposite to bear in mind that the marriage between the son of the plaintiffs and the 1st defendant is not an issue in question. The rights that flow out of the marriage between the 1st defendant and the son of the plaintiffs are not called in question. In such an instance, it cannot be held that the enforcement of the proprietary right of the 1st plaintiff over his daughter-in-law will be a circumstance that closely precedes, surrounds, accompanies and follows a marital relationship. It is not the nomenclature of the relationship that will determine whether a**



2026:DHC:4527



**matter falls under Section 7 (1) Explan.(d) or not.** Nomenclature of the relationship will be relevant for matters coming under Section 7(1) Explan.(c) while what is relevant for Section 7(1) Explan.(d) is nature of case and the cause of action stated.

15. The subject matter of the dispute, cause of action, the facts narrated are all matters which will have a bearing on the question of jurisdiction. Viewed in such a manner, we have no doubt that the suit is not for an injunction ‘in circumstances arising out of a marital relationship’.”

**(emphasis supplied)**

19. Learned Civil Judge-03 while passing the impugned order dated 26.07.2023 had observed as under: -

“ \*\*\*\*

It is further observed that judgment of Avneet Kaur (supra) is not applicable to the facts of the present case, as pleaded in the plaint as the injunction sought in the present suit does not arise in the circumstances arising out of marital relationship and rather the cause of action of the plaintiff is based upon her ownership in the suit property.

Accordingly, the ground of maintainability taken on behalf of the applicant/defendant no.2 does not hold any water.

It is further observed’ that as mentioned in the application, valuation of the suit is also not correct, however, nothing is specified in this regard and same is also not pressed by the counsel for applicant.

Accordingly, **application under Order VII Rule 11 CPC is hereby dismissed.**

\*\*\*\*”



2026:DHC:4527



20. In view of the aforesaid facts and circumstances of the present case, this Court does not find any illegality or perversity in the impugned order dated 26.07.2023, and the same is accordingly, upheld.

21. The present petition is dismissed and disposed of accordingly.

22. During the pendency of present petition, learned Predecessor Bench of this Court *vide* order dated 23.12.2025 had passed the following order: -

“1. Learned proxy counsel appearing for the petitioner seeks an adjournment on the ground that the arguing counsel is not available for the day. Same was the position even on 08.08.2025 and 27.10.2025.

2. Considering the specific observations made by this Court *vide* order dated 27.10.2025, there is no reason for granting an adjournment to the petitioner, however, in the interest of justice, renotify on 23.03.2026, *albeit* subject to payment of costs of Rs.10,000/- (*Rupees Ten Thousand Only*) to the respondents within a period of two weeks.

3. At this stage, it is clarified that if the petitioner is not represented on the next date of hearing, the petitioner shall be proceeded *ex parte* as also this Court will proceed to hear arguments for and on behalf of the respondents.”

23. Thereafter, two applications, **CM APPLS. 17994/2026** (*condonation of delay under Section 151 of the CPC in filing application seeking waiver of costs*) and **17995/2026** (*seeking waiver of costs imposed vide order dated 23.12.2025*) were preferred on behalf of the petitioner which have also been



2026:DHC:4527



pending adjudication. It is stated in the application seeking waiver of costs that the petitioner is a lady of limited financial means and is entirely dependent upon the mercy and support of her parents for her livelihood, and survival. The petitioner is burdened with sole responsibility of maintaining and taking care of her two minor daughters, including their education, day-to-day needs and welfare and has no independent source of income.

**24.** As per the petitioner, non-appearance of the arguing counsel for the petitioner on 23.12.2025, 27.10.2025, and 08.08.2025, was neither intentional nor deliberate and was on account of medical emergency in the counsel's family which was followed by the demise of a family member in his family.

**25.** In these circumstances, in view of the averments made in the applications, and in the interest of justice, costs of Rs.10,000/- imposed on the petitioner *vide* order dated 23.12.2025 is waived of.

**26.** Interim order dated 16.11.2023 stands vacated.

**27.** Pending applications, if any, also stand disposed of accordingly.

**28.** Copy of the judgment be sent to learned Civil Judge-03, Shahdara, Karkardooma Courts, Delhi, for necessary information and compliance.



2026:DHC:4527



29. Judgment be uploaded on the website of this Court, *forthwith*.

**AMIT SHARMA  
(JUDGE)**

**MAY 20, 2026/ns**