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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of Decision: 24th March, 2025**
+ CM(M) 4085/2024 & CM APPL. 2202/2025
SHANTI DEVI

.....Petitioner

Through: Mr. G L Verma, Advocate.
Mr. S S Rawat, Advocate.

versus

OM WATI DEVI AND ORS

.....Respondent

Through: Ms. Manisha Tyagi, Advocate for R-4.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
J U D G M E N T (oral)

1. Mr. S. S. Rawat, learned counsel for petitioner, represents defendant No. 2-Shanti Devi and seeks early hearing.
2. His prime grievance in the main petition is qua order dated 05.09.2024 whereby learned Trial Court has permitted the plaintiff to examine Ms. Sadhna Sharma Sarkar as her *Power of Attorney*.
3. The above said order records that the plaintiff is suffering from various old-age related issues which have affected her, not only physically but mentally as well. The plaintiff, even, had appeared before the Court that day on a wheel-chair and the Court had specifically inquired from her whether she was willing to authorize Ms. Sadhna Sharma Sarkar as her attorney, to which she answered in affirmative.
4. Undoubtedly, any such Attorney, cannot depose for those facts which



are in exclusive knowledge of the principal only and to that extent, there is no scope of debate of any kind whatsoever.

5. Fact, however, remains that while permitting such attorney to depose before the Court, the learned Trial Court also observed as under:-

“At this stage, disallowing this application may cause injustice to the plaintiff. However, allowing some other person to depose on behalf of the plaintiff will not cause injustice to the defendant. Whatever comes in evidence is a matter of record and trial which is to be considered later on and it will be premature to comment upon the facts within the knowledge of Sadhna Sharma Sarkar. Therefore, the application is allowed and disposed off.”

6. Thus, the learned Trial Court is very much conscious about the legal proposition and has rather observed that it would be premature to comment as to which facts are within the knowledge of such attorney and which facts are not. Things would become clearer only when evidence is led.

7. Naturally, the petitioner herein i.e. defendant No. 2 can always take an objection with respect to any fact which, according to her, might be hearsay in nature.

8. In view of the above, this Court does not find any reason to interfere with the impugned order by invoking supervisory powers under Article 227 of Constitution of India.

9. The present petition, along with the pending application, stands disposed of.

10. The next date i.e. 16.04.2025 also stands cancelled.

**(MANOJ JAIN)
JUDGE**

MARCH 24, 2025/sw/SS