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

Date of decision: 17.08.2026

CNR No. DLHC010379492026

+ **CM(M) 1808/2026 CM APPL. 54560/2026 (Stay) & CM APPL. 54561/2026 (Ex. From filing the certified copies)**

DR. ACHINTYA SHARMA

.....Petitioner

Through: **Mr. Anurag Ahluwalia, Senior Advocate with Mr. Siddharth Arora and Mr. Gaurav Kumar, Advs.**

versus

DR. SITANSHI SHARMA

.....Respondent

Through: **Mr. Sunil Dalal, Senior Advocate with Mr. Rajiv Bakshi and Mr. R. P. Rai, Advocates**

CORAM:

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

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JUDGEMENT (ORAL)

1. The present Petition, filed under Article 227 of the Constitution of India, assails the **Order dated 27.07.2026¹** passed by the **learned Principal Judge, Family Court, South District, Saket Courts, New Delhi²**, in **Transfer Petition bearing No. 6/2026³**.

2. Mr. Anurag Ahluwalia, learned Senior Counsel appearing on behalf of the Petitioner, on instructions, submits that the challenge in the present Petition is confined to the directions and observations

¹ Impugned Order

² Learned Family Court

³ Transfer Petition



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made by the learned Family Court with respect to the appointment of a **Local Commissioner**⁴.

3. Learned Senior Counsel for the Petitioner submits that the learned Family Court has substantiated its finding, with respect to appointment of LC, by placing reliance upon the Judgment of the Full Bench of this Court in ***Pushpa Devi v. Bimala Devi & Ors.***⁵. It is submitted that said reliance is misplaced in view of the subsequent amendment to the **Code of Civil Procedure, 1908**⁶, with effect from 01.07.2002, whereby Order XXVI Rule 4A was introduced, which reads as under:

Order XXVI
COMMISSIONS

4A. Commission for examination of any person resident within the local limits of the jurisdiction of the Court.—Notwithstanding anything contained in these rules, any court may, in the interest of justice or for the expeditious disposal of the case or for any other reason, issue commission in any suit for the examination, on interrogatories or otherwise, of any person resident within the local limits of its jurisdiction, and the evidence so recorded shall be read in evidence.

4. Placing reliance upon the aforesaid provision, learned Senior Counsel for the Petitioner submits that the conclusion of the learned Family Court that *consensus ad idem* between the parties is necessary for appointment of an LC for recording evidence is contrary to the express language of Order XXVI Rule 4A of the CPC.

5. He further submits that, in any event, the learned Family Court has travelled beyond the scope of the jurisdiction exercisable by it while adjudicating a transfer petition under Section 24 of the CPC,

⁴ LC

⁵ 1999 SCC OnLine Del 1036

⁶ CPC



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which, according to him, was confined to determining whether the proceedings ought to be transferred and did not extend to adjudicating upon the validity or otherwise of the Order appointing the LC. In this regard, he draws the attention of this Court to Paragraph No. 23 of the Impugned Order, which reads as under:

“23. Further, it is also made dear that since the above order dated 18.05.2026 appointing a Local Commissioner is a judicial order, the applicant/wife shall be at liberty to seek appropriate legal remedy for review or setting aside of the said order, as may be advised.”

6. Learned Senior Counsel for the Petitioner further submits that the aforesaid observation, having been made without any qualification, may be construed as conferring upon the Respondent a right to pursue an appeal or other remedy against the Order appointing the LC.

7. Mr. Ahluwalia, learned Senior Counsel appearing on behalf of the Petitioner, submits that, insofar as the transfer of the proceedings from the Court of the learned Principal Judge is concerned, the Petitioner shall, if so advised, avail of such appropriate remedy as may be available in law.

8. **Per contra**, Mr. Dalal, learned Senior Counsel appearing on advance notice on behalf of the Respondent, submits that the challenge in the present Petition, as originally framed, is confined to the Transfer Petition and that the submissions now advanced with respect to the appointment of the LC are not adequately supported by the pleadings.

9. Learned Senior Counsel for the Respondent submits that the observations made by the learned Family Court form part of the



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reasoning leading to the Order of transfer and do not constitute any independent observation or adjudication upon the validity of the Order appointing the LC.

10. Learned Senior Counsel for the Respondent further submits that Paragraph No. 23 of the Impugned Order does not, in any manner, determine the maintainability or limitation of any remedy available to the Respondent, particularly when the Respondent had already preferred a Review Application on 11.06.2026. He, therefore, submits that no interim or protective directions are warranted in the present proceedings.

11. This Court has heard learned counsel for the parties and, with their able assistance, perused the contents of the present Petition as well as the Impugned Order.

12. Since the challenge is fairly limited, learned counsel for the parties are *ad idem* that the matter may be disposed of with the clarification that any proceedings by way of a Review Application or an appeal, or any other appropriate proceedings, concerning the Order dated 18.05.2026 appointing the LC shall be considered independently and in accordance with law, uninfluenced by the observations contained in Paragraph Nos. 17, 18, 19 and 23 of the Impugned Order. Ordered accordingly.

13. In view of the foregoing discussion and with the consent of the learned counsel for the parties, the present Petition, along with the pending Application(s), stands disposed of in aforementioned terms.

HARISH VAIDYANATHAN SHANKAR, J
AUGUST 17, 2026/rk/DJ