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

Date of decision: 31.08.2026

CNR No. DLHC011089142025

+ **CM(M) 131/2026 & CM APPL. 3554/2026 (Stay)**

AKSHAT AGARWAL

.....Petitioner

Through: Mr. Abhishek Kumar Tiwari,
Mr. Tushar Bawa, Mr. Ankur
Shall and Mr. Uday Prakash,
Advs.

versus

PAWNI GUPTA

.....Respondent

Through: Mr. Mohit Tyagi, Adv.

CORAM:

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

% **JUDGEMENT (Oral)**

1. In view of Notification No. 85/G-4/Genl.-I/DHC dated 21.08.2026, whereby matters listed for 27.08.2026 were directed to be taken up on 31.08.2026, the present matter is taken up for hearing today.

2. The present Petition assails the **Order dated 13.11.2025¹** passed by the **learned Judge, Family Court, South-East, Saket Courts, New Delhi²**, in HMA no. 1545 of 2022, whereby three Applications preferred by the Petitioner, *inter alia*, an Application under Order XVIII Rule 17 read with Section 151 of the **Code of Civil Procedure, 1908³** came to be dismissed.

3. Learned counsel for the Petitioner, at the outset, submits that he

¹ Impugned Order

² Learned Trial Court

³ CPC



confines the challenge in the present Petition to one limited aspect of the Impugned Order, namely, the rejection of the request pertaining to the alleged payment of cash in excess of Rs.2,00,000/- by the family of the Respondent to the Petitioner.

4. Learned counsel for the Petitioner further submits that, since an allegation to the aforesaid effect has emerged during the proceedings, the statutory provisions contained in the **Income Tax Act, 1961**⁴, particularly Section 269ST thereof, read with the Judgement of the Hon'ble Supreme Court in ***The Correspondence, RBANMS Educational Institution v. B. Gunashekar & Anr.***⁵, would consequently stand attracted. It is, therefore, submitted that the learned Trial Court was mandated to notify the Income Tax Department for appropriate action in accordance with law.

5. ***Per contra***, learned counsel for the Respondent submits that no such transaction has been pleaded by the Petitioner in the pleadings before the learned Trial Court. He further submits that reliance placed by learned counsel for the Petitioner upon the cross-examination is misconceived, particularly when the alleged transaction remains nothing more than an unsubstantiated assertion and has not, as yet, been established by any evidence.

6. This Court has heard learned counsel for the parties and, with their able assistance, perused the relevant pleadings, the Impugned Order and the statutory provisions as well as the Judgement relied upon by learned counsel for the Petitioner.

7. A perusal of the pleadings placed before the learned Trial Court makes it apparent that no specific plea or assertion with respect to the

⁴ IT Act

⁵ Civil Appeal No. 5200/2025 arising out of SLP(C) No. 13679/2022



alleged cash transaction has been set up therein. The issue sought to be introduced by the Petitioner, therefore, does not emanate from any foundational pleading forming part of the lis between the parties.

8. The learned Trial Court has, in the Impugned Order, also considered the aforesaid aspect and found that no material or proof had been placed on record to establish the alleged exchange of cash between the two families. The learned Trial Court further noticed that the substantive proceedings before it concern a Petition seeking dissolution of marriage on the ground of cruelty and that the proposed exercise did not bear any discernible nexus with the reliefs sought in those proceedings.

9. In these circumstances, the prayer seeking recall of a witness under Order XVIII Rule 17 CPC, coupled with the proposed inquiry into an alleged cash transaction which has neither been pleaded nor substantiated by any material on record, cannot be said to disclose any circumstance warranting interference by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

10. It is equally significant that the mere elicitation of a suggestion or an assertion during cross-examination cannot, by itself, be elevated to the status of an established fact so as to trigger consequential proceedings before another statutory authority. The Respondent would necessarily be required to establish the factual basis of her case in accordance with law during the course of trial. At the present stage, therefore, there is no demonstrated factual foundation upon which the proposed exercise sought by the Petitioner can meaningfully rest.

11. The jurisdiction of this Court under Article 227 of the Constitution of India is supervisory and is to be exercised sparingly, where the order of the subordinate Court discloses a jurisdictional



error, manifest illegality, perversity or a failure to exercise jurisdiction vested in it.

12. The present case discloses no such infirmity. The learned Trial Court has considered the request made by the Petitioner and, upon finding an absence of both a foundational pleading and supporting material, declined to permit the proposed exercise. No ground for supervisory interference is, therefore, made out.

13. Accordingly, this Court finds no merit in the present Petition. The Petition, along with pending application(s), if any, stands dismissed.

14. Needless to state that this Court has expressed no opinion on the merits of the issues raised and that the Petitioner is at liberty to take such steps as are permissible in law.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 31, 2026/rk/DJ

Signature Not Verified

Digitally Signed
By: HARVINDER KAUR
BHATIA
Signing Date: 02.09.2026
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