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

+ **W.P.(C) 1271/2020 & CM APPL.697/2022**

SATULA DEVI

..... Petitioner

Through: Mr. Vikas Singh, Sr. Advocate with
Mr. Varun Singh, Advocate.

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. K.K. Rai, Sr. Advocate with Mr.
Anshul Rai, Mr. S.K. Pandey, Mr.
Chandrashekhar AC, Mr. Awanish
Kumar and Ms. Sresoshi Chatterjee,
Advocates for R-3.
Mr. B. Shravanth Shanker, Advocate
for R-5.
Mr. Sandeep Sethi, Sr. Advocate with
Mr. D. Abhinav Rao for Applicant
Mr. Umesh Sharma (M: 9818144867)
Ms. Akanksha Sisodia, Advocate for
SDMC.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **13.01.2022**

1. This hearing has been done through video conferencing.
2. This matter is listed on an office note today as there is a typographical error in the application number and writ petition number, in the second page of the previous order dated 6th January, 2022. In the said order dated 6th January, 2022, the application number and writ petition number on the second page of the order have been wrongly mentioned as:

“CM APPL.171/2022 in W.P.(C) 9643/2018”

3. Let the correct application number and writ petition number, in the

previous order dated 6th January, 2022, be reflected as under:

“CM APPL.697/2022 in W.P.(C.) 1271/2020”

4. Let a fresh order, including this correction, be uploaded as a corrigendum to the earlier uploaded order dated 6th January, 2022.

PRATHIBA M. SINGH, J.

JANUARY 13, 2022

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CORRIGENDUM ISSUED ON 13th January, 2022

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

Date of Decision: 6th January, 2022

+ **W.P.(C) 1271/2020**

SATULA DEVI

..... Petitioner

Through: Mr. Vikas Singh, Sr. Adv. with Mr. Varun Singh, Ms. Deepeika Kalia, Mr. Kapish Seth, Mr. Mrityunjay Singh, Ms. Alankrit Dwivedi, Mr. Akshay Dev, Mr. Abhijeet Pandey and Mr. Ytharth Kumar, Advocates.

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. Anupam Srivastava, ASC, GNCTD and Mr. Vasuh Misra, Advocate for R-1. (M:9730835755)
Mr. K.K. Rai, Sr. Adv. with Mr. Anshul Rai, Mr. S.K. Pandey, Mr. Chandrashekhar AC, Mr. Awanish Kumar and Ms. Sreoshi Chatterjee, Advocates for R-3.
Mr. Mahesh Jethmalani, Sr. Advocate with Mr. Ravi Sharma, Mr. Anjani Kumar Rai, Ms. Gunjan Mangla and Ms. Madhullika Rai Sharma, Advocates for R-4.
Dr. Abhishek Singhvi, Sr. Advocate with Mr. B. Shravanth Shanker, Advocate for R-5. (M:9711211221)
Mr. Sandeep Sethi, Sr. Adv. with Mr. D. Abhinav Rao, Advocate for applicant Mr. Umesh Sharma. (M:9818144867)
Mr. D. Abhinav Rao, Advocate for R-6.

Mr. Sanjeev Sagar, Standing Counsel
with Ms. Nazia Parveen, Advocate for
SDMC.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.

CM APPL.697/2022 in W.P.(C) 1271/2020

2. This petition relates to guardianship which was sought in respect of a senior citizen who is referred to, since inception, as Mr. DMP, who was a Member of Parliament and was diagnosed with '*fronto-temporal dementia*'. The guardianship sought by the Petitioner/Mrs. Satula Devi (*hereinafter "Mrs. SD"*) – i.e., Mr. DMP's wife, was vehemently contested by other family members of Mr. DMP and the petition was heard by this Court from time to time. Mrs. SD was supported by her two sons – Respondent No. 4/Mr. Rajiv Sharma (*hereinafter "Mr. RS"*), Respondent No.3/Mr. Ranjit Sharma (*hereinafter "Mr. RJS"*) and their respective families. However, Respondent No.5/Ms. Uma Devi (*hereinafter "Ms. UD"*), who was Mr. DMP's companion, Intervener/Mr. Umesh Sharma (*hereinafter "Mr. US"*) – Mr. DMP's brother, and Respondent No.6/Mrs. Kanchana Rai (*hereinafter "Mrs. KR"*), - Mr. DMP's daughter-in-law whose husband was the deceased third son of Mr. DMP, and her sons were opposing the present writ petition.

3. In the writ petition, the legal position emerging from the two statutes i.e., The Rights of Persons with Disabilities Act, 2016 (*RPWD-2016*) and The Mental Healthcare Act, 2017 (*MHA-2017*) was analysed along with the records of the multiple disputes between the parties including a *habeas corpus* petition which was heard before a Ld. Division Bench of this Court.

Mr. DMP owned a large quantum of moveable and immoveable assets including fixed deposits, investments, immoveable property, shares in leading companies etc., running into more than Rs. 3000 crores. The exact value of assets was not yet fully determined.

4. Vide judgment dated 29th October, 2021, a detailed mechanism was put in place by this Court, for taking care of Mr. DMP and his financial affairs. As per the said judgement, a Guardianship Committee along with a Supervising Guardian i.e., Justice Rajiv Sahai Endlaw (Retd.), was appointed to take decisions unanimously in respect of all affairs of Mr. DMP. The directions issued were in the following terms:

“271. In the above legal and factual background, this Court holds that the present case is one which reveals exceptional circumstances for exercise of parens patriae jurisdiction as also jurisdiction under the RPWD-2016 and MHA-2017. Under Section 14(1) proviso of the RPWD-2016, total support would have to be provided considering that Mr.DMP is unable to take any decisions for his own welfare whatsoever. Under the MHA-2017, nominated representative has to also be appointed for taking decisions for medical care and treatment of Mr. DMP.

272. Moreover, the nominated representative or the guardian need not always be a single individual. Especially in the present case, the movable and immovable assets and financial affairs of Mr. DMP are vast; it would be physically impossible for any particular individual to be able to exercise control and judgment, or to take proper decisions in respect of Mr. DMP’s healthcare. Accordingly, this Court is of the opinion that a Guardianship Committee would deserve to be appointed for the purpose of taking care of Mr. DMP and his financial affairs. In the above circumstances, the following directions are issued:

a) A Guardianship Committee of Mrs. SD, Mr. RS and Mr. US, i.e. the wife, son and brother, related by blood

and marriage (as given in the order of precedence under both the MHA-2017 and RPWD-2016), is constituted for the purposes for acting both as a nominated representative committee under the MHA-2017 and for providing total support under the RPWD-2016. The said Committee shall take unanimous decisions in respect of all affairs of Mr. DMP including medical treatment, healthcare decisions qua daily living, financial affairs dealing with movable and immovable assets, decisions qua the shareholding of Mr. DMP etc. The said Guardianship Committee shall consult with Mr. DMP to the extent possible. The said Guardianship Committee shall also be entitled to operate the bank accounts and deal with the investments of Mr. DMP. However, all decisions of the Guardianship Committee have to be unanimous.

b) If a unanimous decision is not possible on any aspect and there is disagreement among members of the Guardianship Committee, such aspects shall be referred to Justice Rajiv Sahai Endlaw (Retd.), who was already appointed as the interim guardian vide order of this Court dated 8th September, 2021, who shall now act as the 'Supervising Guardian'. On such aspects, where there is divergence or disagreement, the decisions of the Supervising Guardian, shall be final and binding on all parties.

c) All banks, financial institutions, companies, hospitals, doctors, etc. shall be bound by and shall give effect to the directions issued in paragraphs (a) and (b) above.

d) Insofar as medical treatment and daily living is concerned, Ms. UD and Mrs. KR can give their suggestions and recommendations to the Guardianship Committee. However, it would be for the Committee to take the final decision.

e) Mr. DMP shall continue to reside in his official residence. Mrs. SD and any one female family member i.e., Mr. DMP's daughter-in-law, are entitled to and are accordingly, permitted to reside in the official residence

of Mr. DMP, if they choose to. The residence of Mr. DMP, shall be an 'open house' for free ingress and egress of all close family members including both his sons, daughters-in-law, grandchildren and their families, brothers and his family and any other close relatives, as may be permitted by the Committee.

f) Ms. UD can continue to live in the official residence, if she so chooses, but shall not prevent any family member, as directed above, from visiting or residing in the said residence of Mr. DMP.

g) It is also directed that the DCP (Crime Branch), Mr. Joy Tirkey, who had earlier conducted the investigation pursuant to orders of the Ld. Division Bench in the Habeas Corpus petition, shall pay periodic visits at least once a week, to ensure Mr. DMP is comfortable at the residence, in the company of his family members. Any family member who causes any breach of peace and tranquillity can be barred, by the Committee by unanimous decision from visiting the residence of Mr. DMP. If the Supervising Guardian receives any complaint from any family member or Ms. UD or Mrs. KR regarding any commotion or breach of peace, at the residence, he would also be empowered to pass orders barring entry of any individual into the official residence.

h) The Guardianship Committee shall have access to all documents and records relating to the finances, properties, shareholding, investments, etc., of Mr. DMP to enable the Committee to take decisions, keeping in mind the will and preferences of Mr. DMP. To this end, access shall be provided by both Mr. T.R. Narayanan and Mr. Shrinath Banerjee– Secretaries of Mr. DMP, to the accounts and all records of Mr. DMP.

i) The Medical Board constituted by this Court consisting of following three members:

*i. Dr. M.V. Padma, Professor & HOD, Neurology, Chief – Neuroscience Centre, AIIMS, New Delhi.
Email: vasanthapadma123@gmail.com
(9810819167);*

ii. Dr. Achal Srivastava, Professor Department of Neurology, AIIMS, New Delhi. Email: achalsrivastava@hotmail.com (9811178784); and

iii. Dr. Nitish Naik, Professor, Department of Cardiology, AIIMS, New Delhi. Email: nitishnaik@yahoo.co.in (9810416170);

would examine Mr. DMP every month at least once a month, which shall be facilitated by the Guardianship Committee. The chair of this Medical Board shall continue to be Dr. M.V. Padma. The monthly reports, after examination, shall be submitted to the Supervising Guardian. If any emergency medical decision is to be taken and all members of the Committee are not available, any one of the members of the Guardianship Committee would be entitled to take the decision of hospitalization, in consultation with the above doctor, which shall then be telephonically communicated to the other two members of the Committee.

j) The Committee would also be empowered to delegate everyday chores in the household to a person whom the Committee trusts, for a specific purpose, but who shall be accountable to the Guardianship Committee. The decisions taken by the Guardianship Committee shall be continuously informed to the Supervising Guardian - Justice Rajiv Sahai Endlaw (Retd.), on a fortnightly basis. The above arrangement at this stage, shall continue at least, for a period of three years, which is also the time period contemplated under the RPWD (Delhi) Rules-2018, for limited guardianship. A status report shall be submitted at the end of every six months, by the Supervising Guardian to the Court, to review the present arrangement of guardianship, if required. If there is any improvement of Mr. DMP's health condition, including his mental condition, modification of the above arrangement can be sought by moving an application in the present petition.

k) There are various videos and photographs etc., filed by the parties and by the Local Commissioner. All this

electronic data shall be preserved and saved, along with the electronic record of this petition with a #hash value so that it is not tampered with, in any manner and is available for future reference. The IT Department, High Court of Delhi shall take requisite steps in this regard.”

5. Pursuant to the said order, the Guardianship Committee was constituted and various decisions have been taken through the said mechanism, especially by the Supervising Guardian. However today, an application has been preferred by Mrs. SD placing on record the fact that Mr. DMP has since passed away on 27th December, 2021. The application details various incidents and allegations concerning the behaviour of the family members of Mr. DMP during and after his demise and the alleged utilization of his assets by the contesting Respondents, stated to be contrary to the orders of this Court. In view thereof, the application seeks directions concerning continuance of the Supervising Guardian’s mandate and compliance of directions of the Court passed vide order dated 29th October, 2021. The application seeks the following reliefs:

“(a) Pass an order directing that the status of Justice Rajiv Sahai Endlaw (Retd.) as the Supervising Guardian of DMP’s estate will continue till such time order of this Hon’ble Court is complied with in letter and spirit and upon making his report to that effect to court.

(b) Direct that property of Late DMP be handed over to admitted legal heir of DMP by distributing one-fourth share to each branch namely (i) one-fourth share to Petitioner, (ii) one-fourth share to family of Rajeev Sharma, (iii) one-fourth share to family of Ranjit Sharma (iv) one-fourth share to family of Late Devinder Rai;

(c) That action accordance with law should be taken against Respondent No.5, Respondent No.6, Mr Umesh Sharma and Mr TR Narayanan for flouting the directions issued by this Hon’ble Court on 29.10.2021 or any other order of this

Hon'ble Court.

(d) Till the pendency of final hearing of the application, the status of Petitioner and her son quo prior 27.12.2021 to be maintained.

(e) The amounts used by Respondent No.5, Respondent No.6 and Mr Umesh Sharma from the personal and company accounts of DMP in violation of the undertaking given before this Hon'ble Court should be utilized for payment of Costs of lawyers fee and after adjustment towards the same, the remaining costs shall also be awarded as exemplary costs in favor the Petitioner;

(f) Pass any other order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

6. There are manifold allegations levelled in the application, against the contesting Respondents in this matter, consequent to which the afore-stated directions are sought. The allegations include the following:

- (i) That the documents relating to various assets and bank accounts of Mr. DMP were not provided to Mrs. SD, despite specific directions of this Court and of the Supervising Guardian. Various entries in the bank statements and details of matured assets such as fixed deposits and dividends have been cleverly concealed from Mrs. SD, contrary to orders passed by this Court on 29th October, 2021.
- (ii) The Guardianship Committee has not been allowed to operate Mr. DMP's bank accounts and the same continued to be operated by or under directions of Ms. UD.
- (iii) Consultation with the empanelled doctors, appointed vide order dated 29th October, 2021, was delayed and Mr. DMP was admitted in the ICU of Apollo Hospital instead of AIIMS, where the empanelled doctors could not have reviewed Mr.

DMP's condition.

- (iv) Various unpleasant events took place upon the demise Mr. DMP, which even involved scuffles between the grandsons of Mr. DMP.
- (v) Even in respect of conduct of cremation of Mr. DMP and last rites, there was no consensus. Under such circumstances, orders had to be passed by Justice Endlaw (Retd.) in respect of the conduct of the cremation of Mr. DMP, etc.
- (vi) The details of certain amounts, stated to be worth more than Rs 900 crores, have been mentioned in the application, which are stated to have been moved from Mr. DMP's account and withdrawn in an unexplained manner.
- (vii) Respondent Nos.5&6 attempted to withdraw money from the bank account of Mr. DMP, contrary to the orders passed by the Supervising Guardian.
- (viii) The death certificate issued for Mr. DMP wrongly reflects Ms. UD as his wife instead of Mrs. SD.

7. At the outset, upon being queried as to the maintainability of the present application and reliefs sought, in view of the demise of Mr. DMP, Mr. Vikas Singh, Id. Senior Counsel appearing for Mrs. SD, has relied upon Section 41(4) of the Guardians and Wards Act, 1890 to argue that even upon the demise of the ward, till the report of the guardian is received by the Court, the guardian need not be discharged. The said section reads as under:

“41. Cessation of authority of guardian.—

(1) The powers of a guardian of the person cease—

(a) by his death, removal or discharge;

(b) by the Court of Wards assuming superintendence of the

person of the ward;

(c) by the ward ceasing to be a minor;

(d) in the case of a female ward, by her marriage to a husband who is not unfit to be guardian of her person or, if the guardian was appointed or declared by the Court, by her marriage to a husband who is not, in the opinion of the Court, so unfit; or

(e) in the case of a ward whose father was unfit to be guardian of the person of the ward, by the father ceasing to be so or, if the father was deemed by the Court to be so unfit, by his ceasing to be so in the opinion of the Court.

(2) The powers of a guardian of the property cease—

(a) by his death, removal or discharge;

(b) by the Court of Wards assuming superintendence of the property of the ward; or

(c) by the ward ceasing to be a minor.

(3) When for any cause the powers of a guardian cease, the Court may require him or, if he is dead, his representative to deliver as it directs any property in his possession or control belonging to the ward or any accounts in his possession or control relating to any past or present property of the ward.

(4) When he has delivered the property or accounts as required by the Court, the Court may declare him to be discharged from his liabilities save as regards any fraud which may subsequently be discovered.”

8. Reliance is also placed by Mr. Vikas Singh, upon the judgment of the Supreme Court in ***Sudish Prasad v. Babui Jonhia, (2013) 9 SCC 181*** to state that even upon the death of the ward, the guardian continues to be the custodian of his estate, i.e., the property becomes *custodia legis*. He also submits that the directions given by the Supervising Guardian in respect of various bank account statements and transactions, dealing with the various assets of Mr. DMP have not been complied with, as such documents have not been supplied to Mrs. SD. There are various missing pages/documents in the said documents, which have been provided. Accordingly, it is argued

that proper action needs to be taken in accordance with law, to safeguard the assets of Mr. DMP and consider the unlawful conduct of the Respondents.

9. Dr. Singhvi, Id. Senior Counsel appearing for Ms. UD, submits that an attempt is being made to sensationalize the entire issue and the application is not maintainable as there is no legal basis for the same. He submits that the allegation relating to the siphoning off of Rs.900 crores is completely baseless, inasmuch as this movement of funds from one account of Mr. DMP has been made to another account of Mr. DMP himself, in order to put them in fixed deposits, etc., as also for paying advance tax, approved expenditure by the Supervising Guardian, and to make payments to be made in compliance of the order of this Court dated 29th October, 2021. He, thus, submits that there are no unauthorised expenditures/withdrawals that have been made from Mr. DMP's account. He relies upon certain bank statements of Mr. DMP, which have been placed on record by email through Court Master, to give reasons for the withdrawal/movement of the amounts between the accounts of Mr. DMP.

10. On a query from the Court as to the reason for movement of the amounts from one account of Mr. DMP in SBI, Vasant Vihar, New Delhi to the account in SBI, Mumbai, he responds that the standing instructions of Mr. DMP were to broadly keep the balance in both accounts at the same level. On further query being put to Dr. Singhvi, as to who instructed the bank for movement of such large sums i.e., Rs. 70 crores, Rs. 25 crores etc., from one account of DMP to another account, considering that Mr. DMP has been suffering from mental ill-health for several months while the Court has been hearing the matter, the Court has been informed that usually Mr. Narayanan, Mr. DMP's secretary, gives the instruction for transfers.

11. Mr. Sethi, Id. Senior Counsel appearing for Mr. US submits that the conduct of the meetings of the Guardianship Committee, and dealings with the movable and immovable assets of Mr. DMP and the bank accounts, have been strictly in terms of the directions issued by the Supervising Guardian and there has been no unauthorised transfer or withdrawal by his client.

12. Mr. K.K. Rai, Id. Senior Counsel appearing on behalf of Mr. RJS, brings to the notice of this Court that the *shradh* ceremonies and rituals of Mr. DMP are to conclude on 8th January, 2022. Repeatedly, there is impediment in ingress and egress of the family members in the official residence where Mr. DMP lived till his demise. He, therefore, prays that appropriate directions may be issued in this regard.

13. Mr. Mahesh Jethmalani, Id. Senior Counsel appearing for Mr. RS, the elder son of Mr. DMP, submits that there have been unpleasant events between the family members, even leading to physical fights, which would be visible in recordings/CCTV recordings that are available. A perusal of the same would also show who instigated the acts of violence. He further submits that transfer of Rs.900 crores in this manner raises suspicion and the question as to who had given instructions for maintaining equitable balance between the accounts is also not clear.

14. Heard. At the outset, this Court notes that the present application is a fresh application which has been filed and the matter is taken up for the first time after the demise of Mr. DMP on 27th December, 2021. The last rites of Mr. DMP are still underway. Accordingly, all Id. Senior Counsels appearing for various parties have only been heard on a preliminary basis.

15. In view of the submissions, this Court observes that it is unfortunate that the family members have not been able to come together in order to

perform the cremation and last rites of Mr. DMP and there are serious disputes even in respect thereof. It is clear from a perusal of the minutes of proceedings before Justice Endlaw (Retd.), dated 27th December, 2021, placed on record, that Justice Endlaw (Retd.) had to intervene to even decide as to who would perform the cremation and last rites of Mr. DMP, in the following terms:

“9. At this moment, no cognizance can be taken of the desire if any expressed by DMP in his Will if any, as to who should or who should not perform the ceremonies pertaining to his cremation. The cremation and other ceremonies to be thus performed by Mr. Rajeev Sharma as the eldest son of DMP. Needless to state that performance or nonperformance of such ceremonies shall not affect the rights if any in law of either party to claim succession as an heir of DMP. Whichsoever party wants to perform any other ceremony/donation, can perform so in private but all essential rituals relating to the demise of DMP be performed by Mr. Rajeev Sharma only.

10. On enquiry, it is not informed that DMP, in his life expressed any preference for electric cremation. In the circumstances, cremation to take place today, in the traditional mode, at Lodhi Crematorium, New Delhi at 1600 hours and all the necessary arrangements be made for the same immediately and the said time and place be communicated to all concerned. The expenses of cremation to be borne from the estate of DMP.

11. I am disturbed about the violence if any which is informed to have erupted at the hospital immediately after the demise of DMP and have cautioned all parties, specially Ms. Kanchan Rai and her sons that there should be untoward incident while transporting the body of DMP from his official residence to the Lodhi Crematorium or at the time of cremation and none should force himself/herself to conduct any ceremonies or

interfere in the conduct/performance of the cremation and other ceremonies by Mr. Rajeev Sharma and any violation of this direction shall be viewed adversely even in the matter of succession.

12. A copy of this proceeding is being circulated immediately, well before the appointed time for cremation and is also being forwarded to Mr. Joy Tirkey, DCP (Crime Branch) who vide judgement dated 29 October 2021 was entrusted with maintenance of peace at the residence of DMP, to kindly ensure that no untoward incident takes place at the residence or at the cremation of DMP and the ceremonies in public pass off peaceful and in accordance with what is directed above.”

16. This is indeed an unfortunate situation. The minutes recorded by Justice Endlaw (Retd.) on 27th December, 2021, show that he was required to minutely manage and give directions in respect of cremation, last rites, the manner in which the same is to be performed, etc. The family of Mr. DMP, consisting of the wife and two sons, families of the three sons, brother, grandsons and extended family including Ms. UD who claims to be the companion of Mr. DMP for 48 years, could not even come to a consensus and agree on giving a respectful farewell to Mr. DMP, over whose assets they are busy fighting cases in various Courts. Justice Endlaw (Retd.) also made observations relating to the violence between the family members post Mr. DMP's demise, even in the hospital. In view of the fact that there is no consensus amongst the members of the family as also among Ms. UD and Mrs. SD, in so far as the conduct of the last rites of Mr. DMP is concerned, the first and foremost concern of this Court is that the last rites ought to be conducted in a dignified manner.

17. Further, the purpose of constituting the Guardianship Committee with the Supervising Guardian was to give an opportunity to the family to evolve

a working relationship among themselves and come to some amicable resolution of their dispute, in the interest of Mr. DMP. However, from the events which have transpired as recorded in some of the proceedings before Justice Endlaw (Retd.), it is clear that there is no end to the animosity amongst the family members. The only silver lining is the fact that in the last two months, post the judgement passed by this Court, prior to his demise, Mr. DMP may have had some opportunity of meeting his family members and interacted with them to the extent possible.

18. In this view of the matter and the continuing animosity between the parties, to ensure that Mr. DMP's last rites are carried out in a dignified and peaceful manner, the following directions are issued in respect of the last rites of Mr. DMP:

- (i) All the last rites, *shradh* ceremony and any other ceremonies which have to be conducted in accordance with the customs and traditions for Mr. DMP, shall be conducted by Mr. RS, being the eldest son of Mr. DMP, with the cooperation of all the family members concerned and in their presence. Further directions, if required, may be given by Justice Endlaw (Retd.), in this regard.
- (ii) There shall be no impediment or obstacle created by anyone in any manner whatsoever in the entry and exit of the family members and grandchildren, near and dear ones and relatives of Mr. DMP. Family members, relatives, personal, professional and political acquaintances, employees and associates of Mr. DMP shall be permitted to attend and pay respects, in the ceremonies which are to conclude on 8th January 2022, in a

dignified and graceful manner.

- (iii) Mr. Joy Tirkey, DCP (Crime Branch), shall ensure that any third parties who have been engaged by any person/s, who are present at the Safdarjung house of Mr. DMP, shall not create any hindrance whatsoever in implementation of the above directions. Mr. Tirkey to also ensure that the last rites and all other ceremonies are conducted without any impediment, from anyone.

19. Insofar as the allegations relating to the medical treatment of Mr. DMP are concerned, considering the fact that Mr. DMP has passed away in Apollo Hospital where he was also being treated earlier, this Court is not inclined to go into the said allegations.

20. Insofar as the incidents of violence between the grandchildren and other family members are concerned, the Court has perused the photographs which have been placed on record which show an unfortunate situation where the young grandsons of Mr. DMP appear to have entered into a scuffle. Accordingly, the said allegations would be examined, if required, after a reply to this application, is filed by the Respondents.

21. In so far as the issue of assets, fixed deposits, bank accounts, immovable/movable assets, any investments, shares etc. are concerned, since Mr. DMP is no more, the Court has been informed that a probate petition being *TEST. CAS. 1/2022* has been filed by Mrs. KR, who claims to be the executor of the Will stated to have been executed by Mr. DMP and whose children are claimed to be the beneficiaries of the Will. The same is stated to be pending before the Original Side of this Court.

22. Considering the fact that this Court had appointed the Guardianship

Committee and Supervising Guardian vide its previous order dated 29th October, 2021, in order to safeguard the movable and immovable assets of Mr. DMP, considering his demise and the continuous disputes between the family members brought to the notice of this Court today, it is clear that the Guardianship Committee cannot effectively function. Moreover, since Mr. DMP has passed away, the members of the Guardianship Committee may possibly also have claims in the estate of Mr. DMP and would be conflicted in taking decisions. There is also a need to safeguard and secure the assets so that the same, which run into thousands of crores, are not frittered away or misused in any manner. In view of the same, the following directions are issued:

- (i) In view of the fact that Mr. DMP is no more, the Guardianship Committee shall stand disbanded and Justice Rajiv Sahai Endlaw (Retd.), shall act as the Sole Guardian for the estate and all assets of Mr. DMP henceforth. He shall exercise the same powers *mutatis mutandis*, as those of the Supervising Guardian and the Guardianship Committee, in terms of order dated 29th October, 2021. Mr. T.R. Narayanan and Mr. Shrinath Banerjee, Personal Assistants of Mr. DMP, and all parties, shall now proceed strictly in accordance with the instructions given by the Sole Guardian in respect of the assets of Mr. DMP.
- (ii) A report shall be placed before this Court, by Justice Endlaw (Retd.), within a period of two weeks, in respect of the following aspects:
 - (a) Whether the various directions concerning Mr. DMP and his assets, passed by this Court have been complied with

or not in terms of the Court's earlier orders and the directions given by him?

- (b) The minutes of proceedings containing the directions issued by him from time to time shall be placed on record along with the report.
 - (c) Current status of the movable and immovable assets of Mr. DMP, including his bank accounts, fixed deposits, shares and any other investments.
 - (d) Any further documents/actions which may be required in order to safeguard the moveable and immovable assets of Mr. DMP.
- (iii) Since the probate of the alleged Will of Mr. DMP has now been filed and there is a need to secure all the moveable and immovable assets of Mr. DMP, the *status quo* order passed previously shall continue. No withdrawals/transfers shall be made from any of the bank accounts of Mr. DMP, including the fixed deposit accounts and other investments/holdings of Mr. DMP, held solely by him or in a joint account with any other person. However, the inward remittance into these accounts shall continue as before, including the interest accrued on the various deposits, income from investments or any other sources, dividends received from various companies, etc. Upon such remittances being made or received into these accounts, the concerned parties/banks shall give an intimation to the Sole Guardian about the same.
- (iv) The *status quo* order which was earlier granted in respect of the

immovable properties of Mr. DMP, on 4th June, 2021, shall continue. No party shall take any action to create any third-party interest in the said properties/assets or diminish the same in any manner. The said order was passed in the following terms:

“6. There are two accounts of the DMP, having substantial amounts, in which Ms. Uma Devi is stated to be a joint account holder and a co-signatory. On a query from the Court as to since when Mrs. Uma Devi is a joint account holder Mr. Abhinav Rao, ld. counsel has fairly submitted to the Court that she has been a joint account holder since November 2019. The Court notes that by November 2019, the DMP had already been detected with ‘fronto- temporal dementia’, in writ proceedings before the Ld. Division Bench of this Court being W.P.(CRL) 2255/2019 R.S. v. State & Ors as noted in the judgment dated 20th September, 2019.

7. In this background, since the DMP’s assets (movable and immovable) are substantial and run into thousands of crores, without listing out the same, it is deemed appropriate to accept the voluntary statement made by Ms. Kanchana Rai and Ms. Uma Devi in reply to the application being CM 4396/2020 where it is stated as under:

“That, in view of the fact that the answering Respondent and the Respondent No.5 have voluntarily offered to maintain status-quo till the disposal of the present writ petition, the present Application seeking maintaining of status-quo of DMPs property has become infructuous.”

Thus, it is directed that status quo shall be maintained in respect of all moveable and immoveable assets of the DMP by both Mrs. Uma Devi and Ms. Kanchana Rai/her family.

...

17. In so far as the DMP's bank accounts are concerned, the current position is that he is suffering from dementia and is unable to operate his own bank accounts. From the submissions made, it appears that Ms. Uma Devi and the Secretary of the DMP are operating his accounts or spending therefrom. Accordingly, the status quo, as volunteered above, shall apply to all the bank accounts of the DMP. If any amounts are withdrawn, spent or transferred from the accounts of the DMP for living needs and other expenses, a statement of such amounts and expenses incurred every month along with the bank statements of the bank accounts of the DMP shall be filed, for the perusal of the Court in a sealed cover."

The above direction to maintain *status quo* shall now be binding upon all the parties, including Mr. US and his family who has been heard as an Intervenor, in this petition. They shall also not permit any third party to deal with the estate of Mr. DMP in any manner whatsoever, without prior permission of the Sole Guardian.

- (v) Any payments which are to be made to any authorities including the tax authorities, other governmental bodies, or other expenditure including the residence expenditure, or the expenditure of Mrs. SD's residence, or approved expenditure by Justice Endlaw (Retd.), including for conduct of all final rites as per customs and traditions, shall be made only after the prior approval of the Sole Guardian.
- (vi) All banks, financial institutions, companies and other authorities shall ensure strict compliance of today's directions.

No amounts/assets shall be released to/transferred by any of the parties or any third party, without the prior approval of the Sole Guardian. Similarly, no account of Mr. DMP shall be permitted to be operated by any persons, without the prior approval of the Sole Guardian, which is to be obtained in respect of each such transaction.

- (vii) The Sole guardian may issue directions to any person to ensure compliance of these directions.
- (viii) This Court also notes that the remuneration of Justice Endlaw (Retd.) had been fixed in terms of the order dated 8th September, 2021, confirmed by the order dated 29th October, 2021 in the following terms:

“274. Remuneration of the Supervising Guardian - Justice Rajiv Sahai Endlaw (Retd.) is fixed in terms of order dated 8th September, 2021 in the following terms:

“iii) The interim guardian shall be paid an honorarium of Rs.3 lakhs per month exclusive of secretarial, travelling and other expenses which shall be borne from the DMP’s accounts.

iv) The interim guardian may appoint a Manager to assist him in carrying out his functions and also fix a reasonable remuneration of the said Manager.””

23. Considering the quantum of work and the nature of the communications and the situations that the Sole Guardian is required to deal with, the remuneration of the Sole Guardian is increased to Rs.5 lakhs per month exclusive of secretarial, travelling and other expenses which shall be

borne from Mr. DMP's estate.

24. Coming to the other specific prayers in the present application, this Court is of the *prima facie* opinion that the relief of partition sought through prayer (b) would not be maintainable in these proceedings. Insofar as prayer (a) is concerned, since the Guardianship Committee and the Supervising Guardian were already taking care of the estate of Mr. DMP under the orders passed by this Court, till the final report of Justice Endlaw (Retd.) is received, the above directions are issued in order to ensure that there is no third-party interest that is created in the immovable properties and there is no diminution of the assets of Mr. DMP.

25. It is clarified that the above directions are being issued in order to safeguard the assets of Mr. DMP and shall be subject to any directions which may be passed by the Court dealing with the testamentary case being **TEST. CAS. 1/2022** or in any other proceedings concerning Mr. DMP's estate. Any further directions, if required shall be considered, post the receipt of the report of Justice Endlaw (Retd.) and post the filing of the replies to the present application by the Respondents.

26. Lastly, this Court notes that the South Delhi Municipal Corporation (*hereinafter* "SDMC") is stated to have issued a death certificate of Mr. DMP, dated 3rd January, 2022, annexed to the present application, naming his spouse as Ms. UD. The order of this Court dated 29th October, 2021, especially at paragraphs 2 to 5, clearly recognizes Mrs. SD as Mr. DMP's wife. Accordingly, the SDMC shall file an affidavit as to the circumstances that led to the issuance of this certificate dated 3rd January, 2022. The SDMC shall ensure that the death certificate is correctly issued reflecting the name of **Mrs. Satula Devi** as the wife of Mr. DMP, within 2 weeks. This

shall however be without prejudice to Ms. UD's stand that she is entitled to enjoy the status of the wife of Mr. DMP. Accordingly, Mr. Sanjeev Sagar, Id. Standing Counsel for SDMC, has appeared before the Court upon intimation, and has agreed to ensure rectification of this certificate and compliance by the SDMC of today's order. Details, if any required, of Mrs. SD to ensure the rectification of the death certificate, shall be provided by Id. Counsel for the Petitioner, to the Id. Standing Counsel for SDMC within 2 days. Copy of this petition along with the application be served by Mrs. SD on Mr. Sanjeev Sagar as well.

27. Reply to the application be filed in two weeks. Rejoinder to the same be filed by one week before the next date of hearing.

28. List for hearing, on 24th February, 2022. This shall be treated as a part-heard matter.

29. Copy of this order be communicated immediately by the Registrar (Writs) of this Court to the Sole Guardian, i.e., Justice Rajiv Sahai Endlaw (Retd.), Mr. Joy Tirkey, DCP (Crime Branch) and Mr. Sanjeev Sagar, Id. Standing Counsel, SDMC, for ensuring compliance.

30. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as the certified copy of the order for the purpose of ensuring compliance. No physical copy of orders shall be insisted by any authority/entity or litigant.

PRATHIBA M. SINGH
JUDGE

JANUARY 6, 2022/dk/Rahul/MS