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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 10th May, 2023*+ **W.P.(C) 6010/2023 and CM APPL. 23553/2023****KANCHAN SINHA**

..... Petitioner

Through: Mr. Vivek Sood, Senior Advocate
with Mr. Rudreshwar Singh & Mr.
Gautam Singh, Advocates. (M:
9970179706)

versus

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI**

..... Respondent

Through: Ms. Mehak Nakra & Mr. Abhishek,
Advs for GNCTD. (M:9871144582)
Mr. Kushagra Bansal, Advocate for
daughter-in-law. (M:9999448797)**CORAM:****JUSTICE PRATHIBA M. SINGH****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- Ms. Kanchan Sinha seeking issuance of directions to Respondent No.1 - Government of National Capital Territory of Delhi to appoint a doctor to monitor the condition of her son- Mr. Amit Sinha and a nurse to care for him at the cost of the Petitioner.
3. As per the writ petition, Mr. Amit Sinha is a US citizen and an OCI card holder. He was diagnosed with cancer at Sloane Kettering, New York, USA in June 2021. Accordingly, he underwent surgery of his leg and was, thereafter, administered chemotherapy. However, after the chemotherapy was stopped there was a relapse and it was diagnosed by the doctors in USA

that cancer had spread to various other organs of the body. In view of the same, the Petitioner was receiving blood infusions at least one to two times a week, since 15th March, 2023 as his haemoglobin count was very low.

4. During the course of his treatment, in March 2023, Mr. Amit Sinha is stated to have expressed his wish to move back to India for palliative care. Accordingly, Mr. Amit Sinha, his sister and mother along with his wife, who is a Spanish national, came back to India in the last week of March, 2023.

5. Mr. Amit Sinha is stated to be living with the Petitioner and is under the medical supervision of Dr. Mitu Shrikhande at Fortis Hospital, Vasant Kunj. He has been given blood transfusion on nine dates in April, 2023 and as also on 1st May, 2023 at Fortis Hospital, Vasant Kunj. His next blood transfusion was scheduled for 4th May, 2023 however, as per the Petitioner, Mr. Amit Sinha's wife is stated to have taken control of his treatment and medication after he suffered a fall in the bathroom on 4th May, 2023.

6. It is the case of the Petitioner that Mr. Amit Sinha's wife has since then, withheld access for medication and treatment of Mr. Amit Sinha from the Petitioner and her daughter and is refusing to permit further blood transfusion.

7. The case of the Petitioner is that considering Mr. Amit Sinha's medical condition, he ought to be directly under the treatment and care of Dr. Mitu Shrikhande and all decisions in respect of his treatment should be taken by the said doctor.

8. When the case was first listed before the Court on 8th May, 2023, the following directions were passed:

“8. In the background as recorded above, *it is directed that the team from Fortis Hospital, Vasant Kunj*

consisting of Dr. Mitu Shrikhande and other medical personnel whom she may wish, are requested to examine Mr. Amit Sinha today itself and place a report before the Court by the next date of hearing. At the time of the said examination, one police official from the PS - Vasant Vihar shall accompany the team of doctors. The said officer shall, however, maintain a distance from the family and shall only intervene if the need so arises.

9. Dr. Mitu Shrikhande and her team shall take steps to assess Mr. Amit Sinha's medical condition and administer the treatment that she deems appropriate. Dr. Mitu Shrikhande may submit a report by the next date and is also free to join the proceedings virtually on the next date of hearing.

10. Copy of this order be served upon all necessary family members of Mr. Amit Sinha by a police officer from the PS - Vasant Vihar. The said family members including the wife are free to join the proceedings on the next date of hearing.

11. Copy of this order be communicated to the SHO, PS Vasant Vihar as also to Dr. Mitu Shrikhande by the Id. Counsels for the parties.

9. Pursuant to the previous order, a case summary has been placed before the Court which has been signed by Dr. Mitu Shrikhande and Dr. Dhruv Zuthsi at Fortis Hospital, Vasant Kunj. The said case summary is relevant and is set out below:

“CASE SUMMARY

Mr. Amit Sinha is a 56 years old gentleman who has Metastatic Undifferentiated Pleomorphic Sarcoma diagnosed and treated at Sloan Kettering Cancer Centre, New York, USA. He shifted to India in last week of March 2023 for palliative care in view of progressive disease after chemotherapy and surgery. In view of disease, he had persistent gastrointestinal bleeding requiring regular blood component support

and admissions. He has been admitted under my care since 09.05.2023. His Hemoglobin was found to be 6.5 g/dL for which 2 units of PRBC were transfused. Clinically assessment after 2 units of PRBC transfusion show that his speech is incoherent and he is unable to establish any meaningful communication. He has multiple neurological deficits in term of right hemiparesis and left eye ptosis. He has also been examined by the neurologist - Dr. Dhruv Zuthsi. We recommended MRI of the brain for objective assessment of brain. Mr. Amit Sinha, who is a terminal cancer patient is hereby found unfit for taking any decision including the decision on his further management."

10. The Court has also interacted with the wife of Mr. Amit Sinha - Ms. Marta Molas Ibraz as also her counsel, Mr. Kushagra Bansal. Ld. counsel for the Petitioner have also made their submissions.

11. Dr. Mitu Shrikhande has joined the proceedings virtually and has informed the Court that the patient is suffering from a very advanced stage of cancer and is terminally ill. Blood transfusion was given to the patient till 1st May, 2023. Prior to that date, Mr. Sinha was having conversations with the doctor, however, on 1st May, 2023 it was noticed that having conversation with him was becoming difficult and same was informed to the wife of Mr. Sinha, his mother and the sister as well. Now the patient is completely unable to speak. Pursuant to the order passed by this Court, the patient was brought to the hospital yesterday and Dr. Mitu Shrikhande suspects that the patient is now having neurological degeneration. Further she submits that there may have been no sedation of Mr. Sinha as was alleged by the Petitioner but due to the neurological degeneration it may

have been appearing that the patient is sedated. In order to ascertain the exact level of degeneration, an MRI has been scheduled for Mr. Sinha.

12. Insofar as Ms. Marta is concerned, according to her, the writ petition has not placed the facts correctly and there are several inaccuracies and incorrect statements in the petition. According to Ms. Marta, she has been married to Mr. Sinha for the last 23 years and a decision was taken to bring him back to India in view of the fact that treatment was no further treatment was available in New York as per Sloane Kettering. She also states that she left her employment and took care of her husband and her movement to India has not been very pleasant. She is deeply distressed by the fact that her husband is undergoing so much pain and he is unable to decide anything on his own.

13. On a query from the Court, it has been clarified that insofar as the expenses for the treatment of Mr. Sinha in the US is concerned, the same were borne through insurance. Insofar as the expenses which have been incurred in India, the mother has borne the same.

14. It is further submitted by Id. Counsel for the Petitioner that in some of the documents the patient, while he was in his proper senses, has mentioned his sister as the next of kin. This fact is disputed by Ms. Marta.

15. It is clarified that this Court is not dealing with any dispute relating to the various family members of Mr. Sinha or any issues relating to his assets *etc.* The present petition is only concerning the medical treatment of Mr. Sinha. It is clear to the Court on the basis of the case summary and the submissions made by Dr. Mitu Shrikhande that the patient is unable to take any decisions on his own. Considering the circumstances of the case and the misunderstanding between the family members, this Court deems it

appropriate to put in place the following arrangement for taking care of the patient Mr. Amit Sinha:

- i. The treatment of Mr. Amit Sinha, who is a cancer patient, shall now been continued under the overall care and supervision of Dr. Mitu Shrikhande and her team in Fortis Hospital, Vasant Kunj, who shall consult the mother, sister and the wife. Dr. Mitu Shrikhande is free to seek the assistance of any other doctors from Fortis and otherwise in the care and treatment for Mr. Sinha.
- ii. The expenses for the treatment, medication *etc* shall be borne by the Petitioner- Mrs. Kanchan Sinha.
- ii. The decision as to whether the patient should continue to be hospitalized or should be sent back home or any other decision relating to his treatment shall be taken by Dr. Mitu Shrikhande along with her team, after consulting both the mother and the wife. The decision of Dr. Shrikhande shall be final and binding on all parties.
- iv. To ensure continued care and administration of medication on a regular basis even in case the patient moves back to the residence, Dr. Mitu Shrikhande shall make arrangements with her hospital for deputing at least one nurse on a day-night shift basis so that entire care is right under her supervision. If any incident or event takes place while the patient is in the house, the said nursing staff shall be in touch with Dr. Mitu Shrikhande and she would take a decision as to the course of action to be adopted in such a situation.
- v. Insofar as the treatment and medical care of Mr. Sinha in general is concerned, Dr. Mitu Shrikhande's decision shall be final.

16. Insofar as interaction with the patient is concerned, the patient's family members including the mother, wife and sister are free to meet Mr. Sinha whenever they so desire and there shall be no obstacle or impediment in the same caused by any of the parties against the other party.

17. With these directions the writ petition is disposed of. The applications, if any, are disposed of.

PRATHIBA M. SINGH
JUDGE

MAY 10, 2023
dj/sk

