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

% *Date of decision: 23.04.2024*

+ **MAT.APP.(F.C.) 131/2024**

BABITA RANI

..... Appellant

Through: Mr Rajiv Bajaj with Ms Shruti Khosla
and Mr Vidur Marwah, Advocates.

versus

HARPAL

..... Respondent

Through: Mr Satya Ranjan Swain with Mr
Kautilya Birat and Mr Ankush
Kapoor, Advocates.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE AMIT BANSAL

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

CM APPL. 23049/2024

1. Allowed, subject to just exceptions.

MAT.APP.(F.C.) 131/2024 and CM APPL. 23050/2024 [*Application filed
on behalf of the appellant seeking interim relief*]

2. This appeal is preferred against the judgment and order dated
20.03.2024 rendered by the Family Court.

3. A perusal of the impugned judgment and order as also the record
would show that the matter is at the stage of recordal of evidence. It appears
that the appellant had sought adjournments on a couple of occasions which,



according to the respondent, were based on documents which were “manipulated”.

4. Notably, the impugned order came to be passed based on an application filed by the appellant under Section 151 of the Code of Civil Procedure, 1908 for recalling the order dated 09.11.2023 whereby, the Family court had appointed a Local Commissioner (LC) for recording evidence.

4.1 The learned Judge, while dismissing the application for recall of order dated 09.11.2023, also imposed costs of Rs. 50,000/- on the appellant. Furthermore, a direction has been issued that any further adjournment sought by the appellant would result in the appellant being burdened with costs of Rs.10,000/- for each adjournment.

5. A perusal of the appeal shows that there are some assertions to the effect that the witnesses tendered by the respondent were intimidated by the appellant.

6. We have heard the learned counsel for the parties.

7. The learned counsel for the parties say that they are *ad idem* that the proceedings concerning recordal of evidence should be completed at the earliest.

7.1 Thus, without getting mired into allegations and counter-allegations made by the parties, we intend to appoint another LC.

7.2 Learned counsel for the parties say that they would have no objection if another LC is appointed for recording of evidence.

8. Accordingly, the appeal is disposed of with the following directions:

- (i) Ms Warisha Farasat (Mobile No.9953825580) is appointed as the LC.
- (ii) The learned LC is requested to conduct the proceedings on *pro bono*



basis.

(iii) The LC will ensure that the proceeding is continued from the stage at which it is presently positioned. Beside, the LC will ensure that no adjournment is granted unless absolutely necessary.

(iv) The evidence will be recorded within eight (08) weeks from the date of receipt of a copy of the order.

(v) The direction contained in the impugned judgment and order with regard to the costs are set aside.

9. Both Mr Rajiv Bajaj and Mr Satya Ranjan Swain assure the court that they would cooperate with the LC, for recordal of evidence.

10. Parties will appear before the LC on 07.05.2024.

11. The appeal is thus allowed in the aforesaid terms. Consequently, CM APPL. 23050/2024 is closed.

12. Parties will act based on digitally signed copy of the order.

RAJIV SHAKDHER, J

AMIT BANSAL, J

APRIL 23, 2024/tr