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

+ **CM(M) 3953/2024**

NEHA JAIN

.....Petitioner

Through: **Mr. Archit Singhal & Ms. Ritu Jain,**
Advvs.

versus

RACHIT JAIN

.....Respondent

Through: **Mr. Sahil Gupta & Mr. Pawan**
Agarwal, Advvs.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

02.12.2024

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CM APPL. 70182/2024 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CM(M) 3953/2024 & CM APPL. 70181/2024 (for appointment of Local Commissioner)

1. The petitioner challenges the impugned order dated 12.11.2024 passed by the learned Principal Judge, Family Court (Central), Tis Hazari Court, Delhi in HMA No. 712/2021.
2. Petitioner is the respondent in the Divorce Petition which is pending before the learned Trial Court. On 18.04.2024, the learned Trial Court appointed Sh. S.C. Malik, (Retd. Judicial Officer) as Local Commissioner ["LC"] for recording the evidence.
3. Petitioner filed an application under Section 151 CPC before the learned Trial Court for change of LC on the ground that LC was biased



against the petitioner in as much as in the past, he had taken on record a certificate U/s 65B of The Indian Evidence Act, 1872 [“Act”] and also accepted the application filed by the respondent for summoning the witnesses.

4. The learned Trial Court had granted ex post facto approval for taking the certificate U/s 65B of Act in order to avoid any duplicacy. Such order passed by the learned Trial Court is already under challenge in CM (M) 3220/2024.

5. Per contra, learned counsel for the respondent has submitted that the petitioner is not himself co-operating with the LC in the matter of recording of evidence. Already fourteen (14) adjournments have already been granted for the purpose of the evidence and the matter is getting delayed because of the petitioner.

6. Learned counsel for the respondent has also brought to the notice of this Court the order dated 27.09.2024, wherein the learned Trial Court had taken note that the petitioner is intentionally trying to delay the matter and despite this fixed a fresh deadlines of the sixty (60) days for completing the cross examination of the respondent and his witnesses.

7. The Trial Court also cautioned the petitioner that cross examination of all the witnesses be concluded before 27.11.2024. The matter is now stated to be listed before the Trial Court for today.

8. Vide impugned order dated 12.11.2024, the learned Trial Court dismissed the application of the petitioner for change of the LC, while holding that it is the petitioner herself who is intentionally trying to delay the matter on one pretext or the other.



9. The petitioner has already challenged the order of taking on record of the certificate u/s 65B of the Act and the ex post facto approval granted by the learned Trial Court before this Court.

10. On the basis of the record and order of the learned Trial Court dated 12.11.2024, this Court finds no compelling reasons to believe that LC has acted in a biased manner against the petitioner herein.

11. There is no merit in the present petition, same is accordingly dismissed along with all pending applications.

RAVINDER DUDEJA, J

DECEMBER 2, 2024

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