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

+ **CM(M) 170/2025**

SHIKHA VERMA BATHLA

.....Petitioner

Through: Ms. Supriya Manan and Mr. Rahul Khan, Advocates with Petitioner in person (Through VC)

versus

ASHISH BATHLA

.....Respondent

Through: Ms. Meenakshi Jain and Mr. Gautam Kapur, Advocates

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **28.01.2025**

CM APPL. 5197/ (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CM(M) 170/2025

1. This is a petition under Article 226/227 of the Constitution of India with the following prayers:-

“A. Waive off the cost of ₹4000 put on the Petitioner-Mother by the Learned Family Court in Order dated 17.01.2025 in GP54/2022 in an unjust and unprecedented manner and/or

B. Direct the Learned Family Court to allow the Petitioner Mother to file her Evidence and list of witnesses on her behalf in the pending Guardian Petition and/or

C. Direct the Learned Family Court to hear the pending matrimonial disputes of the above mentioned parties in a fair, just, reasonable, impartial and legal manner and/or

D. Direct the Learned Family Court to expedite and hear the final arguments in the pending Contempt Petition.”

2. The factual background of the matter is that respondent-father filed a



Guardianship Petition before the learned Family Court, Saket on 01.09.2022.

3. On completion of pleadings, learned Family Court framed the issues on 27.01.2023 and adjourned the case for evidence with directions to the parties to file list of witnesses within a period of 15 days.

4. Examination-in-chief of the respondent was recorded on 08.10.2024, but his cross-examination was deferred to 25.11.2024.

5. On 25.11.2024, cross-examination was deferred to 17.01.2025 at the request of the petitioner, subject to cost of Rs. 2000/-. The order dated 25.11.2024 reads as under:-

“25.11.2024

Present: Petitioner with Ms. Meenakshi Jain and Sh. Gautam Kapur, Ld. Counsel.

Respondent with Ms. Supriya Manan and Sh. Rahul Khan, Ld. Counsel.

Heard. Perused.

Ld. Counsel for respondent seeks adjournment submitting that certified copies were applied on behalf of respondent which have not been obtained and she is not prepared for cross-examination of petitioner/PW-1 today.

Request for adjournment is opposed by petitioner counsel.

Anything and everything filed by a party on record is so accepted after copies of the same are provided to the opposite party or the counsel.

It is for the party concerned to retain the copies of the material on record and may use it for evidence purposes in accordance with established procedure and law.

Adjournment is granted subject to cost of Rs. 2000/payable by respondent to petitioner in one week time period against receipt.

It is made clear that respondent/counsel need to take steps for preparation for cross-examination of petitioner/PW-1 positively on next date of hearing and may even inspect the file, if deemed fit.

Cross-examination of petitioner/PW-I shall be done day to day onwards from next date of hearing.

Fixed 17.01.2025 for cross-examination of petitioner/PW-1.”



6. On the next date i.e. 17.01.2025, the Family Court notes that the cost was not paid and again an adjournment was sought on the ground that certified copies of the documents applied by the petitioner were not made available. At the request of the petitioner, cross-examination was again deferred to 17.02.2025 subject to further cost of Rs. 2000/-. Order dated 17.01.2025 read as under:-

“17.01.2025

Present: Ms. Supriya Manan and Mr. Rahul Khan, Ld. Counsel for applicant/petitioner.

Non applicant/respondent Mr. Asbish Bathla with Ms. Meenakshi Jain and Mr. Gautam Kapur, Ld. Counsel.

Heard. Perused.

Despite opportunities, written submissions not filed by the applicant/petitioner in terms of order dated 25.10.2024.

Ld. Counsel for applicant/petitioner seeks adjournment, wanting to move some application.

Fixed 17.02.2025 for arguments on contempt petition under Section 12 of The Contempt of Court Act, 1971.”

7. Learned counsel for the petitioner submits that respondent-father filed his evidence after an unusual delay of 21 months, but no cost was imposed upon him by the Family Court. It is further submitted that the evidence affidavit filed by the respondent-father included more than thirty annexures, running into 1000 pages, previous counsel of the petitioner did not handover the copies of the said annexures, and therefore, the petitioner had to apply for the certified copies of the same but the certified copies were not ready, and due to the said reason, she could not cross-examine PW-1.

8. It is submitted that petitioner is a single mother and the trial court has not granted fair opportunity to the petitioner to cross examine PW-1 by imposing cost of Rs. 2000/- twice.



9. It is further submitted that petitioner has filed a contempt application but the said application is lying pending and is not being disposed of by the learned trial court and therefore directions have been sought for expeditious disposal of the said application.

10. Per contra, learned counsel for the respondent submits that the copies of all the annexures were supplied to the petitioner and that petitioner is deliberately delaying the cross-examination of PW-1 by taking dates on one or the other ground and that learned Family Court rightly imposed the cost and therefore the petition is liable to be dismissed.

11. It is evident from the orders dated 25.11.2024 and 17.01.2025 that learned Family Court imposed cost on account of adjournments sought for cross examination of PW-1. The order imposing cost cannot be questioned on the ground that respondent had caused undue delay in filing the evidence-affidavit of PW-1. Petitioner could have applied for certified copies on urgent basis and in any case even if the same were not ready, she could have inspected the record and should have proceeded with the cross examination of PW-1. Even if, the record to be inspected was voluminous, there was sufficient time in between the dates and she could have shown her bona fide by at least partly cross examining the witness.

12. Court finds no illegality or perversity in the impugned orders passed by the learned Family Court, and therefore, there is no justification for the waiver of the cost.

13. However, with regard to the other prayers, petitioner is granted liberty to file list of witnesses as also her own affidavit in evidence.

14. In case any contempt application is pending before the Family Court, the Court is directed to make best possible endeavour to take up the said



application on top priority and to decide the same expeditiously.

15. Petition is disposed of in terms of the aforesaid order.

RAVINDER DUDEJA, J.

JANUARY 28, 2025

RM