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

+ CRL.REV.P.(MAT.) 236/2025, CRL.M.A. 15579/2025, CRL.M.A. 15580/2025

MAYUR PRIYA BHARTI

.....Petitioner

Through: *Appearance not given.*

versus

THE STATE GOVT. OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Hemant Mehla, APP for State  
with Mr. Rahul Ranjan, SI, PS-Harsh  
Vihar.

+ CRL.REV.P.(MAT.) 239/2025, CRL.M.A. 15524/2025, CRL.M.A. 15525/2025

MAYUR PRIYA BHARTI

.....Petitioner

Through: *Appearance not given.*

versus

STATE OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Hemant Mehla, APP for State  
with Mr. Rahul Ranjan, SI, PS-Harsh  
Vihar.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

**19.05.2025**

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1. The present proceedings arise out of a petition instituted under

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Section 125 of the Code of Criminal Procedure, 1973<sup>1</sup> by the Respondents No. 2 and 3 before the Family Court, Shahdara District, Karkardooma Courts – registered as MT No. 636/2021, along with the connected execution proceedings registered as – Ex. No. 580/2024.

2. In the course of the said proceedings, the Petitioner raised an objection to the territorial jurisdiction of the Family Court by moving an application under Sections 7 and 8 of the Family Courts Act, 1984<sup>2</sup>. It is the Petitioner's case that instead of adjudicating this foundational objection, the Family Court proceeded to pass an order awarding interim maintenance to Respondents No. 2 and 3. It is further contended that while the Court later fixed a date for hearing arguments on the jurisdictional objection, it nevertheless continued with the recording of evidence, including the cross-examination of Respondent No. 2.

3. Aggrieved by the afore-noted course of action, the Petitioner filed an appeal before this Court [MAT.APP.(F.C.) 47/2025] under Section 19 of the Family Courts Act, assailing the order dated 18<sup>th</sup> December, 2024 passed by the Family Court, deferring the cross examination of the Respondent after recording the same in part. The grievance was that despite having raised a jurisdictional objection, which, if accepted, would strike at the root of the maintainability of the proceedings, the Family Court deferred a decision on the said application and continued with the cross-examination of Respondent No. 2. It was submitted that such a course prejudices the Petitioner's rights and renders the trial procedurally vulnerable.

4. This Court, while disposing of the said appeal on 24<sup>th</sup> February, 2025,

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<sup>1</sup> "Cr.P.C."

<sup>2</sup> "Family Courts Act"

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declined to entertain the matter on the ground of maintainability under Section 19 of the Family Courts Act. However, considering the importance of the jurisdictional objection, the Court permitted the Petitioner to move an appropriate application before the Family Court and issued the following direction:

“1. *The present appeal under Section 19 of the Family Courts Act, 1984 read with Section 528 of Bharatiya Nagarik Suraksha Sanhita Act, 2023 seeks to assail the order dated 18.12.2024 passed by the learned Family Court in MT No.636/2021. Vide the impugned order, learned Family Court has, after recording the part cross examination of the respondent, deferred the matter for her further cross examination.*

2. *Learned counsel for the appellant submits that the appellant has been compelled to approach this Court as despite an application having been moved by the appellant under Sections 7 and 8 of the Family Courts Act raising a grievance that the learned Family Court did not have the necessary territorial jurisdiction to deal with the petition preferred by the respondent, no orders are being passed by the learned Family Court in respect of the said applications.*

3. ***Having perused the impugned order, we are of the considered view that the present appeal would not be maintainable under Section 19 of the Family Courts Act. However, taking into account the appellant’s aforesaid grievance, which would in our opinion go to the root of the matter, we dispose of the appeal by granting liberty to the appellant to move an appropriate application before the learned Family Court, with a prayer to dispose of his pending application under Sections 7 and 8 of the Family Courts Act. We expect that in case such an application is moved, the learned Family Court will dispose of the same as expeditiously as possible.***

4. *We, however, make it clear that we have not expressed any opinion on the merits of the claim raised by the appellant.”*

[Emphasis supplied]

5. Pursuant to the liberty granted by this Court, the Petitioner moved an application before the Family Court, seeking disposal of their pending jurisdictional objection under Sections 7 and 8 of the Family Courts Act, 1984. On 10<sup>th</sup> March, 2025, the Family Court took up the matter for hearing and, after hearing both sides, passed the following order:

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*“Arguments on application under Section 7 & 8 of Family Court Act, 1984 heard.*

*Ld. Counsel for respondent has cited latest report of Process Server dated 05.03.2025 to argue that the address furnished by petitioner is of a clinic of a doctor and she is not residing at the given address, whereas Counsel for petitioner has cited police verification report pertaining to the year 2023 to prove that the petitioner has been residing there. **This court has offered re-verification of address of petitioner through SHO concerned but counsel for respondent has no faith in police report and has suggested that a neutral local commissioner may be appointed to verify the address of petitioner.** Accordingly, Sh. Pankaj Kashyap, Advocate, who is present before the court in another matter, is willing for appointment of Local Commissioner, and both the parties are also agreed for this appointment.*

*Sh. Pankaj Kashyap, Advocate, Chamber No. K-126, 127 Tis Hazari Court, Delhi - 110054, Mobile No. 9811935172 is hereby appointed a Local Commissioner for address verification of the petitioner.*

*Ld. Local Commissioner shall visit the address of the petitioner mentioned in petition on 25.03.2025 at 2.00 PM. Both the parties are directed to remain present at the address during visit of Ld. Local Commissioner and no further notice is required to be served upon the parties or advocates and today's proceeding is advance notice to both parties. Ld. Local Commissioner shall carry out spot inspection and prepare a record of spot proceedings. The charges of Local Commissioner shall be payable by the respondent @ Rs. 10,000/- in advance. Ld. Local Commissioner shall furnish a report with spot proceedings by next date of hearing.*

*Put up on date fixed i.e. on 01.04.2025.*

*Copy of order be given to both parties as well as Ld. LC”*

[Emphasis supplied]

6. Despite consenting to the appointment of a Local Commissioner for verifying the address of the Petitioner, a step aimed at objectively resolving the jurisdictional dispute, the Petitioner instead moved an application under Section 24 CPC before the Principal Judge, Family Courts, Shahdara District, seeking transfer of the proceedings in MT No. 636/2021 and Ex No. 580/2024 from the court of the Presiding Officer, Family Court, on allegations of bias and deviation from this Court's order. Taking note of the submissions advanced by the parties, Principal Judge by order dated 16<sup>th</sup> April, 2025, dismissed the said application in the following grounds:

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“1. *Vide this order, I shall dispose of an application U/s 24 CPC for transfer of the cases bearing MT No. 636/21 and Ex. 580/24 from the court of Sh. Devender Kumar, Id. Judge, Family Court (Shahdara), Karkardooma Courts, Delhi to any other court.*

2. *Ld. Counsel for the applicant/petitioner submitted that the Hon'ble High Court of Delhi in its detailed order dated 24.02.2025 in Mat.App(FC) 47/2025 titled Mayur Priya Bharti Vs. Hemlata Nimesh & Ors. specifically mentioned that the application filed by the petitioner U/s 7 & 8 of the Family Courts Act goes to root of the matter and hence liberty has been granted to move an application for disposal and deciding first the place of jurisdiction before going for cross-examination of witnesses. It is submitted that on the direction of Hon'ble High Court of Delhi, a fresh application dated 27.02.2025 was filed by the petitioner before the court of Sh. Devender Kumar, Id. Judge, Family Courts (Shahdara), Karkardooma Courts, Delhi and summons of the application were issued to the respondent for 11.03.2025. It is submitted that on 11.03.2025, Id. Judge did not give a date for arguments on the application U/s 7 & 8 of the Family Courts Act but instead gave direction for appointment of Sh. Pankaj Kashyap, Advocate, Tis Hazari Courts, Delhi as a Court Commissioner for joint inspection of site on 25.03.2025 which is contrary to the letter and spirit of the order dated 24.02.2025 of Hon'ble High Court of Delhi and would eventually lead to breach of peace at site. It is submitted that Sh. Devender Kumar, Id. Judge, Family Courts (Shahdara), Karkardooma Courts, Delhi has passed such perverse orders abrogating the clear directions of orders of Hon'ble High Court of Delhi that application U/s 7 & 8 have to be decided and instead gave directions for re-inspection of site which was unwarranted and uncalled. It is submitted that the report of process server dated 05.03.2025 serving one of the applications to the respondent no.1 Ms. Hemlata Nimesh clearly and unequivocally stated that the respondent no.1 and her father are not living in Delhi and are resident of Loni, Ghaziabad.*

3. *It is submitted that Sh. Devender Kumar, Id. Judge, Family Court (Shahdara) vide his detailed order dated 26.04.2024 unequivocally directed that jurisdiction of Delhi Court is made because of Aadhar Card of respondent no.1 bears the address of Delhi and now when ample proofs are produced before said court that respondent no.1 is not residing in Delhi but living in Loni, Ghaziabad and got married from Loni, Ghaziabad only and Jurisdiction of Delhi is made out on false, forged and fabricated documents. It is submitted that when Ld. Counsel for the applicant Mr. M.K. Verma went in the morning of 17.03.2025 to mention the circumstances which may lead to breach of peace but Id. Judge did not pay heed to the submission and directed that he has passed the orders and they cannot be changed.*

4. *It is submitted that the court of Ms. Nidhi Bala, Id. JMFC (Mahila Court), Shahdara, Karkardooma Courts, Delhi vide her orders dated 07.01.2025 in CT Cases 1514/21 under D.V. Act and CR. Case 883/24 in FIR No. 257/2022 also categorically stated on request of Ld. Counsel for*

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*the applicant that the application challenging jurisdiction is pending and be decided on 08.05.2025 and directed the SHO Harsh Vihar, Delhi to file a detailed reply to the application U/s 340 CrPC, filed by the applicant.*

5. *It is submitted that Sh. Devender Kumar, Id. Judge, Family Court (Shahdara) failed to appreciate that the order dated 24.02.2025 passed by Hon'ble High Court of Delhi was clear and unequivocal to decide the application of jurisdiction U/s 7 & 8 of Family Courts Act but conversely gave direction for joint inspection of site which is perverse and contemptuous in nature. It is submitted that the Id. Judge overlooked the facts and basic provisions of law and failed to appreciate the ambiguous statements of police officials and so called neighbours of respondent no.1. It is submitted that Id. Judge failed to appreciate that two affidavits have been filed having different addresses on the same date by respondent no.1 and no rent agreement is on record for property bearing no. 346, Gali No.12, Ravi Dass Mandir, Mandoli Saboli, Delhi-93 and a rent agreement for property bearing no. 288/11, Mandoli Saboli, Near Ravi Dass Mandir, Delhi-93 is filed with the chargesheet.*

6. *I have heard the arguments of Ld. Counsel for the applicant/petitioner and perused the record.*

7. ***The applicant is seeking transfer of the matter alleging that Id. Judge, Family Court vide order dated 11.03.2025 has given direction for appointment of a Court Commissioner for joint inspection of site on 25.03.2025 instead of deciding the application U/s 7 & 8 of the Family Courts Act filed by the applicant and further, the concerned court has passed an order dated 26.04.2024 on applications U/s 127 CrPC in 125(2) CrPC. The applicant, if aggrieved, by the orders dated 11.03.2025 appointing the Local Commissioner and dated 26.04.2024 on application U/s 127 CrPC and U/s 125(2) CrPC, passed by Id. Judge, Family Court, may resort to appropriate remedy as per law but same does not constitute sufficient or valid ground for transferring the matter.***

5. ***In view of the above, I find no merit in the application filed by the applicant for transfer of the abovesaid cases. The application is hereby dismissed.***

6. *File be consigned to record room and summoned record be sent back to the concerned court."*

[Emphasis supplied]

7. The Principal Judge, by a reasoned order dated 16<sup>th</sup> April, 2025, dismissed the transfer petition, noting that the grievance raised by the Petitioner, pertaining to the appointment of a Local Commissioner and the direction for address verification, did not amount to a legally sustainable ground for transfer of proceedings. It was held that if the Petitioner was

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aggrieved by any order passed by the Family Court, the appropriate course would be to seek redress in accordance with law, rather than levelling allegations of bias or impropriety. It was further noted that no prejudice had been caused to the Petitioner by the impugned directions, and that the appointment of the Local Commissioner had been done with the express consent of both parties in open court.

8. It is in the backdrop of the above sequence of events that the present petitions have been filed under Section 528 of BNSS, assailing both the order dated 11<sup>th</sup> March, 2025, passed by the Family Court in MT No. 636/2021 appointing the Local Commissioner, and the order dated 16<sup>th</sup> April, 2025, passed by the Principal Judge rejecting the Petitioner's transfer request.

9. Counsel for the Petitioner submits that the Family Court committed a jurisdictional and procedural error in appointing a Local Commissioner vide order dated 11<sup>th</sup> March, 2025. He argues that there exists no provision under the Family Courts Act, 1984 or the Code of Civil Procedure, 1908, which authorises the appointment of a Local Commissioner for the purpose of verifying a party's residential address in such proceedings. It is further contended that the Family Court failed to assign appropriate weight to the process server's report dated 5<sup>th</sup> March, 2025, which specifically recorded that Respondent No. 2 was not found residing at the address furnished in the pleadings. According to that report, a compounder at the location disclosed that the said address pertains to a medical clinic operated by the father of Respondent No. 2, and not to her residence.

10. On this basis, counsel for the Petitioner submits that the Family Court ought to have accepted the version of the process server's report and

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proceeded to reject the maintenance petition for want of territorial jurisdiction, rather than embarking upon an unwarranted route of appointing a Local Commissioner for verification. He further submits that the police verification report relied upon by Respondent No. 2, which states that she resides at the said address, pertains to the year 2023 and is stale. In contrast, the process server's report is recent, dated 5<sup>th</sup> March, 2025, and therefore ought to have been accorded greater probative value.

11. Without prejudice to the above contentions, counsel for the Petitioner states that his client would be content if the proceedings in MT No. 636/2021 and Ex. No. 580/2024, including the pending application under Sections 7 and 8 of the Family Courts Act, are transferred to any other Court within the Shahdara District, so as to ensure that the adjudication proceeds expeditiously and, in a manner, uninfluenced by the events thus far.

12. Upon a considered evaluation of the submissions advanced, this Court is unable to find merit in the Petitioner's challenge. The order dated 11<sup>th</sup> March, 2025, passed by the Family Court arose in the context of a jurisdictional objection raised by the Petitioner under Sections 7 and 8 of the Family Courts Act, 1984. The core issue for determination before the Family Court was whether Respondent No. 2 was genuinely residing at the address disclosed in the maintenance proceedings, a factual question with direct implications on territorial jurisdiction.

13. At the relevant time, the Family Court was confronted with two competing pieces of evidence: on one hand, a process server's report dated 5<sup>th</sup> March, 2025 suggesting that the Respondent did not reside at the stated address, and on the other, a police verification report from 2023 indicating otherwise. In response, the Family Court offered the Petitioner an

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opportunity to seek re-verification through the local SHO. However, this was declined by counsel for the Petitioner, who explicitly expressed apprehension regarding the objectivity of the police and instead suggested that the address be verified through a neutral and independent Local Commissioner. It was only upon this suggestion that the Family Court, in the interest of procedural fairness and effective adjudication of the pending application, appointed a Local Commissioner for the limited purpose of verifying the residence status of Respondent No. 2.

14. In the circumstances, the appointment of a Local Commissioner cannot be faulted. The order was not only a measured response to conflicting material before the Court but also a fair and neutral method adopted at the behest of the Petitioner's own counsel. The argument now raised, that there exists no statutory framework for such an appointment in maintenance proceedings, ignores the fact that Courts are often required to adopt pragmatic, equitable procedures to elicit clarity on disputed foundational facts. Jurisdictional questions, particularly those rooted in factual contentions like residence, may well warrant verification through such means, especially where both parties agree to it. The Petitioner's present objection is, therefore, entirely misconceived.

15. As for the grievance seeking transfer of the proceedings, this Court finds no basis to interfere. The Principal Judge, Family Courts, Shahdara has already considered the Petitioner's allegations of bias and rejected the same in a detailed order dated 16<sup>th</sup> April, 2025. Merely because the Presiding Judge directed the appointment of a Local Commissioner, pursuant to the Petitioner's own request, cannot, by any standard, give rise to a reasonable apprehension of bias. Judicial impartiality cannot be undermined on such

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tenuous and self-contradictory grounds. Transfer jurisdiction is to be exercised with circumspection and cannot be invoked as a remedy for forum shopping.

16. This Court also notes that no substantive prejudice has been demonstrated to flow from the impugned order. The direction to verify the residential address was confined to facilitating the adjudication of a pending application and was neither determinative of the issue nor final in nature. The Petitioner will have ample opportunity to press all objections, both factual and legal, before the Family Court. In these circumstances, no case is made out for setting aside the impugned orders or for transferring the proceedings to another Court.

17. Accordingly, the present petitions are dismissed. Pending applications, if any, also stand disposed of.

**SANJEEV NARULA, J**

**MAY 19, 2025**

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