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

+ **W.P.(CRL) 1914/2025**

RAJENDRA PRASAD OJHA

.....Petitioner

Through: Mr. Amit Chadha, Senior Advocate
alongwith Mr. Gaurav Sharma, Ms.
Akansha Sharma, Mr Harjas Singh,
Mr. Saarthak Sethi Advocates.

versus

THE STATE OF NCT OF DELHI AND ORS.Respondents

Through: Mr. Rahul Tyagi, ASC (Crl) for State
Mr. Manoj Kumar Sharma, Advocate
for R3 along with R-3.
Ms. Sunita Arora, Advocate for R4.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

01.07.2025

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1. Let a specific report be called today from Deen Dayal Upadhyaya Hospital, Delhi where the body has been lying at present in mortuary for the last 27 days, as to whether the body is in a fit condition for transporting to Bihar for last rites. The concerned officer from the Deen Dayal Upadhyaya Hospital is present before this Court and has been apprised of this order.

At 03:00 PM

2. The present writ petition has been filed by the petitioner under Article 226 and 227 of the Constitution of India read with Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking directions to the respondent no. 1 to hand over the body of the deceased brother of the petitioner, to the petitioner to perform his last rites.



3. The brief facts of the case, for the adjudication of the present writ petition are that the deceased Sh. Surendra Nath Ojha was allegedly living separately from the respondent no. 3 and 4 who happens to be wife and daughter of the deceased respectively.

4. The learned senior counsel for the petitioner has produced on record some documents to reflect that the deceased was living separately from the respondent no.3/wife and respondent no. 4/daughter and in this regard he has also produced on record an order of the court wherein it is mentioned that the deceased was living separately from respondent no.3/wife and respondent no. 4/daughter since the year 2013 and was paying maintenance to them. These facts, to some extent, have been disputed by the respondents. However, they state that later on they had compromised the same, which is disputed by the petitioner. It remains undisputed that the deceased herein was brought to Delhi and was living in Delhi at the time when he unfortunately passed away with the petitioner herein who is his elder brother.

5. When the matter came up before this Court, a report was called from the concerned Hospital, considering that body of the deceased was lying in the mortuary for the last 27 days pending dispute between the petitioner and the respondent no.3 and 4. The report has been received and the same reads as under:

“....Status Report of Deceased Body Namely Surender Nath Ojha in the matter of Rajendra Prasad Ojha Vs The State of NCT of Delhi & Ors in WP (criminal) 1914/2025

On the direction of Honourable Delhi High Court in the matter WP (criminal) 1914/2025. It is submitted that the dead body of deceased Surender Nath Ojha was brought in DDU Hospital Mortuary on 03 06 2025 for preservation and post mortem examination through Police Station Rajouri Garden Today on 01.07.2025 after



examination of the body it is observed that there were extensive ulcerations present over the left foot and half lower part of back After post mortem examination of the body there shall be multiple incisions required for the complete autopsy and after that condition along with pre existing ulcerations the condition of the body will be more vulnerable to be decomposition during transportation and lying in the compromised cooling system of the ambulance To prevent the further distortion of the body hence, it will be more reasonable to cruminate the body as early as possible followed by post mortem examination

This report is prepared on the basis of information received from HOD(Forensic Medicine) for your kind information please...”

6. The report was also read out to the petitioner and respondent no.3 and 4 and after the intervention of this Court, it was decided between the parties and amicably agreed that the last rites of the deceased will be conducted in Delhi at Nigam Bodh Ghat, jointly by the petitioner herein and the respondent no.4 Smt. Phool Kumari. The daughter of the deceased informs that the wife of the deceased i.e. her mother (respondent no. 3) will arrive in Delhi tomorrow morning. She states that Court may ensure that the last rites are conducted after her arrival.

7. Having considered submissions made by both the parties, it is directed that the DDU Hospital shall handover the body of the deceased to the SHO of P.S. Hari Nagar or any other officer deputed by him, at about 02:00 PM, who shall facilitate the transfer of body to Nigam Bodh Ghat, and the last rites will be conducted at 04:00 PM tomorrow at Nigam Bodh Ghat, Delhi jointly by the petitioner who is the elder brother of the deceased and the daughter of the deceased Smt. Phool Kumari under the supervision of the local/concerned SHO which this Court is informed is SHO, P.S. Kashmere Gate, who will ensure that no untoward incident takes place when the last rites are conducted. The parties are also directed, and they also undertake,



that considering the situation herein, they will maintain peace, decorum and sanctity that such occasion commands.

8. This Court clarifies that this Court has only passed this order considering the gravity of the situation and the fact that the deceased's body has been kept lying in the mortuary for the last 27 days and is needed to be given a dignified departure from the mortal world. This Court does not in any manner, is passing any order or reflecting any opinion regarding any other disputes which may be pending or may arise between the parties regarding the assets or properties, etc. of the deceased which may be under the domain of the concerned court.

9. This order has been communicated and explained to the parties in Hindi also.

10. Let this order be also brought to the notice of SHO, P.S. Hari Nagar as well as SHO, P.S. Kashmere Gate, Delhi, by the State for ensuring strict compliance.

11. Accordingly, the present petition is disposed of in above terms.

12. Let the copy of this order be given *dasti* under the signature of Court Master.

13. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 01, 2025/vc/zp

[Click here to check corrigendum, if any](#)