



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

% ***Date of decision: November 28, 2025***

+ **CM(M) 2158/2025, CM APPL. 70571/2025, CM APPL. 70572/2025, CM APPL.74188/2025**

VATSALA KHANNA

.....Petitioner

Through: Mr. Mukesh Kumar Verma and Mr. Kuljeet Singh, Advocate.

versus

ASHISH KHANNA

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (O R A L)

CM APPL. 74905/2025 (*Early hearing by petitioner*)

1. The petitioner, *vide* the present application seeks early hearing of the captioned petition.
2. For the reasons stated in the present application, the same is allowed and the next date of hearing already fixed i.e. 09.01.2026 stands cancelled.
3. In view of the aforesaid, the present application stands disposed of.

CM(M) 2158/2025

4. In view of the order passed in *CM APPL. 74905/2025* hereinabove, the present petition is taken up for hearing today.
5. The petitioner, *vide* the present petition under Section 227 of Constitution of India read with Section 151 of the Code of Civil Procedure, 1908 (**CPC**) seeks setting aside of the orders dated 10.09.2025 and 30.05.2025 (***impugned orders***) passed by the learned Judge Family



Court-02, South-East District, Saket Court, in case being HMA No. 675 of 2019 entitled “*Ashish Khanna vs. Vatsala Khanna*”, whereby the petitioner’s right to cross-examine the respondent was closed.

6. It is the case of the petitioner that the learned Family Court failed to appreciate that the inability of the petitioner’s counsel to conduct cross-examination on 30.05.2025 was not deliberate and/ or intentional but was due to his sudden illness, which was duly substantiated by the medical prescription dated 29.05.2025, issued by the Medical Officer of the Saket Court Dispensary. It is further contended that the right of cross-examination is a fundamental procedural safeguard as per *Section 137* and *138* of the Indian Evidence Act, 1872 and since it is a settled position of law that cross-examination is an essential part of a fair trial, thus, denial thereof by the learned Family Court, without sufficient justification, particularly in a matrimonial case where allegations of cruelty are in issue, it not only strikes at the very root of justice but materially weakens the case of the petitioner.

7. At the outset, for the sake of convenience the impugned orders dated 30.05.2025 and 10.09.2025 under challenge are reproduced herein as under:

“30.05.2025

At 03:30 P.M.

***Present: Sh. Anuuj Aggarwall, Advocate and
Sh. Vivek Kumar Gupta Advocates,
learned counsel for the petitioner
with petitioner. Sh. Mukesh Kumar,
Advocate, learned counsel for the
respondent (through V.C.).***



Heard and perused.

Learned counsel for the respondent seeks adjournment stating that he is suffering from viral fever and loose motions, and therefore not able to appear before this Court today for cross-examination.

Adjournment is strongly opposed by the learned counsel for the petitioner stating that respondent is intentionally indulging in delaying tactics.

As per records, petitioner filed evidence by way of affidavit dated 08.02.2021 which was tendered into evidence on 10.03.2021 before the Court Commissioner, however, he was not cross-examined.

Vide order dated 11.03.2025, learned counsel for the respondent submitted that he will conclude the cross-examination of petitioner (PW-1) in three dates before the Court.

In view of the submissions, the case was listed for cross-examination of petitioner (PW-1) on 20.05.2025, 21.05.2025, and 22.05.2025. However, on 20.05.2025, learned counsel for the respondent did not cross-examine PW-1 on the pretext that he got misled about the settlement talks and therefore could not prepare cross-examination. Learned counsel for the respondent further submitted that being unwell he was also not able to cross-examine. He further requested that on 21.05.2025 and 22.05.2025 also he would not be able to cross examine PW-1 but will conclude the cross-examination on 30.05.2025, i.e., today.

Today, learned counsel for the respondent is again seeking adjournment stating that he is suffering from viral fever and loose motions.



Vide order dated 20.05.2025, while acceding to request of the learned counsel for the respondent for conduct of cross-examination of PW-1 today, it was made clear that if the cross-examination is not conducted, no further opportunity would be given.

In the above-mentioned circumstances, I find substance in the submissions of the learned counsel for the petitioner that respondent is indulging in delaying tactics.

Accordingly, opportunity given to respondent to cross-examine petitioner (PW-1) is closed.

Petitioner submits that no other witness is to be examined and PE is closed.

In view of the submissions, petitioner's evidence is closed.

List the case for respondent's evidence on 25.08.2025.

Respondent is directed to file evidence byway of affidavit before the next date with advance copy to the opposite counsel.

On request, copy of the order be given to both the parties.

"10.09.2025

***Present: Sh. Anuj Aggarwall, Advocate,
learned counsel for the petitioner.***

***Sh. Mukesh Kumar, Advocate, learned
counsel for the respondent.***

Heard and perused.

***An application under Section 151 CPC has been
filed by the respondent seeking permission to cross-
examine the petitioner.***



No cogent reason has been given by the respondent for filing the present application. It is submitted by the counsel for the respondent that on the date fixed for cross-examination of the petitioner, the counsel for the respondent was not well, for which he has filed a medical prescription without any other medical documents.

Perusal of the record shows that on 30.05.2025 the opportunity given to the respondent to cross-examine the petitioner was closed and the matter was kept for respondent's evidence.

Thus, the application filed by the respondent is dismissed.

Vide order dated 25.08.2025, last and final opportunity was given to the respondent to file affidavit of evidence along with list of witnesses. Despite the said order, no steps have been taken by the respondent till date and neither the copy of the affidavit of evidence has been supplied by the respondent to the petitioner nor the same has been filed in the Court.

In these circumstances, one last and final opportunity is given to the respondent to file affidavit of evidence within 02 weeks with advance copy to the petitioner, subject to cost of Rs. 5,000/- to be deposited by the respondent in DLSA, failing which the right of the respondent to lead evidence shall be closed and no further opportunity on any ground whatsoever shall be given.

To come up for respondent's evidence on 13.11.2025."

8. Both orders are replete with instances of the petitioner indulging in delaying tactics before the learned Family Court. Further, it is an admitted position that despite the petitioner being represented on 30.05.2025 as also



the order being passed at 03:30 P.M. though, the proceedings were adjourned for 25.08.2025, however, despite being represented on that date, the petitioner never challenged the order dated 30.05.2025 till the passing of the subsequent impugned order dated 10.09.2025. This means that the petitioner had very much acquiesced in the said order of 30.05.2025, which certainly does not give any right for her to challenge the same compositely by way of the present petition.

9. In any event, when the present petition was listed for the first time on 12.11.2025, learned counsel for the petitioner sought a period of *one week* to place on record the order(s) of the learned Family Court since and from 10.03.2021, when the petitioner's examination in chief was recorded therein, till the passing of the impugned orders. Though the learned counsel for the petitioner has filed the relevant orders with effect from 21.02.2017 till 25.10.2024, however, today no argument has been addressed *qua* the aspect for which he sought adjournment on 12.11.2025.

10. However, learned counsel today submits that it a settled position of law that anyone like the petitioner herein ought not to suffer because of the negligence of his/ her counsel, and this is such a case wherein the petitioner ought not to be allowed to suffer because of the wrongs committed by her counsel. Since there is no such plea asserted by the learned counsel for the petitioner, the same being beyond the case set up by the petitioner before this Court, the petitioner cannot be allowed to build a new case to urge the same before this Court.

11. This Court also finds that on 22.11.2023, 06.04.2024 and 04.05.2024 one Mr. Rahul Bhandari, Advocate appeared for and on behalf of the petitioner before the learned Family Court. Today, he is present in



Court, and upon asking he submits that he is the brother of the petitioner. Interestingly, the appearance of a different person has been given herein.

12. Before parting, this Court deems it apposite to observe that no party to a litigation, be it matrimonial proceedings of the nature involved in the present petition, can be allowed to take repeated benefits of her/ his own wrong, more so, when in the present proceedings, the proceedings before the learned Family Court was fixed for recording of evidence of the parties throughout since and from 10.03.2021 and have not been concluded even till today. Judicial time is precious when there are numerous cases pending before a Court of law.

13. Upon query, this Court has been told that despite repeated specific orders for proceeding/ concluding with the recording of evidence, including a specific order dated 25.08.2025 passed by the learned Family Court, it is only recently on 13.11.2025 that the petitioner has finally filed her affidavit in evidence, and that too without taking proper recourse to law.

14. In view of the aforesaid, this Court finds no reason for issuance of notice or for interfering with the impugned orders dated 30.05.2025 and 10.09.2025 passed by the learned Family Court.

15. Accordingly, the present petition alongwith pending application(s), stand dismissed in *limine*.

SAURABH BANERJEE, J.

NOVEMBER 28, 2025/NA/Deepak