



\$~22

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 213/2025 & CM APPL. 6543/2025, CM APPL. 70919/2025
PANKAJ JAINPetitioner

Through: Petitioner in person (through VC).

versus

PARUL JAINRespondent
Through: Mr. Ramakant Sharma, Mr. Ravi
Avasthi & Mr. Prateek Avasthi, Advs.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

04.02.2026

%

1. This hearing has been done through hybrid mode.
2. The present petition under Article 227 of the Constitution of India seeks the following prayers:-

“(a) Set aside the Impugned Order dated 23.10.2024 of the Ld. Judge, Family Court, West, Tis Hazari Courts, Delhi in GP 54/2018, titled as “*Parul Jain v. Pankaj Jain*” to the extent that it dismissed the contention that the Ld. Family Court is barred from passing any order granting custody to a non guardian ;
(b) Quash/Close the proceedings of G.P. No. 54 of 2018, titled as “*Parul Jain v. Pankaj Jain*” before Ld. Judge, Family Court, West, Tis Hazari Courts, Delhi, as the said proceedings being ultra vires;
(c) Pass any other Order(s) which this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.”

3. The petitioner, who appears in-person, submits that *vide* impugned order dated 23.10.2024 passed by the learned Family Court, his application



under Section 151 of the CPC for adjudication of his contention regarding Section 7 of the Guardianship and Wards Act was not considered.

4. A perusal of the said order, would reflect that while dealing with the petitioner's aforesaid application, the learned Family Court passed the following order:-

“5. In regard to respondent's application at SI. No. b, this court has already passed the orders dated 21.11.2023 & 02.03.2024 regarding procedural formalities involved in the case and both these orders have attained finality upto the Hon'ble Delhi High Court in appeals filed by the respondent.”

5. It is a matter of record that the aforesaid order dated 02.03.2024 was challenged by the petitioner by way of CM(M) 2406/2024, which was dismissed *vide* judgment dated 09.09.2024 passed by the learned Single Judge of this Court. It is the contention of the petitioner that *vide* the aforesaid judgment, the learned Single Judge had given him liberty to agitate his legal issues in the following manner:-

“64. As per the scheme of Hindu Minority and Guardianship Act, 1956, the father and mother both are natural guardians though father is up in the order of preference. Here, the case is between two parents only and no third party is involved. **According to father, learned Trial Court cannot grant custody without deciding the aspect of guardianship and without ordering that father was no longer fit to continue as a guardian. This Court would not make any comment in this regard as the case is at the stage of final arguments and it will be always open to learned Family Judge to consider the aforesaid aspect in accordance with law.** There cannot be any qualm with respect to the importance of pleadings but as already noticed above, the transposition has been permitted and upheld also and, therefore, learned Trial Court would interpret the pleadings in the aforesaid backdrop of the transposition.”



6. On the basis of the aforesaid observation, according to the petitioner, learned Trial Court had to decide the aforesaid issue.
7. Learned counsel for the respondent submits that guardianship petition no. 54/2018 has been finally disposed of *vide* order dated 26.09.2025. Although the present petition has been preferred by the petitioner before passing of the said final order, the fact remains that all his contentions has been dealt with and disposed of by the learned Family Court *vide* the aforesaid final order. Learned counsel for the respondent further submits that all the contentions of the petitioner has already been dealt with by the learned Division Bench of this Court *vide* order dated 12.12.2023.
8. Be that as it may, if it is the case of the petitioner that the concerned Family Court did not consider his submissions in accordance with law, then he would be at liberty to challenge the said final order.
9. In view of the aforesaid, the present petition has become infructuous and is accordingly disposed of.
10. Pending application, if any, also stands disposed of.

AMIT SHARMA, J

FEBRUARY 4, 2026/nk/sg