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

+ **CM(M) 324/2026 & CM APPL. 8883/2026 (Stay)**

**KAPIL DAHIYA**

.....Petitioner

Through: Mr. Rakesh Dahiya, Adv. along with  
petitioner in person through VC

versus

**HARLEEN KAUR**

.....Respondent

Through: Mr. Amit Bajaj, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT SHARMA**

**ORDER**

**11.05.2026**

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1. This hearing has been done through hybrid mode.
2. The present petition under Article 227 of the Constitution of India, 1950, seeks the following prayers: -

“a) Pass any order/direction thereby setting aside/quashing order dated 15.12.2025 passed by the Ld. Family Court Judge, District Central, Tis Hazari Courts, Delhi in HMA/1822/2022 titled as “Harleen Kaur vs Kapil Dahiya” and thereby direct the Ld. Family Court judge restore the right of the Petitioner (then Respondent) to give evidence in his favour in the interest of justice;

b) Pass any other order as this Hon’ble Court may deem fit and proper.”

3. The present petition assails the order dated 15.12.2025<sup>1</sup> passed by the learned Judge, Family Court-01, Central District, Tis Hazari Courts<sup>2</sup> in HMA

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<sup>1</sup> Impugned Order

<sup>2</sup> Learned Family Court



No. 1822/2022<sup>3</sup>, titled as “*Harleen Kaur vs. Kapil Dahiya*”, whereby the petitioner’s right to lead Respondent Evidence<sup>4</sup> was closed by the learned Family Court, on account of the petitioner’s non-appearance.

4. It is the case of the petitioner that the marriage between the parties was solemnized on 28.12.2013, and a male child was born out of the wedlock on 24.11.2015. Divorce proceedings under Sections 13(1)(ia) and 13(1)(ib) of the Hindu Marriage Act, 1955, were instituted by the present respondent against the petitioner, in the year 2022, on the grounds of cruelty and desertion.

5. At the outset, learned counsel for the petitioner submits that the latter has been suffering from chronic and recurring paralytic attacks and was medically unfit to participate in the Divorce proceedings. Learned counsel for the petitioner further submits that the learned Family Court, without considering the condition of the petitioner at that relevant point of time, had arbitrarily and abruptly closed the right of the petitioner to lead evidence, despite there being medical documents in support of the same.

6. Learned counsel for the petitioner draws attention of this Court to the order dated 16.12.2024 passed by the learned Family Court, to submit that on the said date, petitioner had filed two applications before the learned Family Court. One of the applications was filed under Order VIII Rule 1A(3) read with Section 151 of the CPC and the other was filed under Section 26 of the Hindu Marriage Act, 1955, seeking visitation rights. Learned counsel for the petitioner submits that on the said date, the learned Family Court had adjourned the matter for 15.02.2025, only for the purposes of arguments on the said applications, and not for RE. The order dated 16.12.2024 is reproduced as under: -

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<sup>3</sup> Divorce Proceedings/Divorce Petition

<sup>4</sup> RE



IIMA No.1822/22  
Harleen Kaur v. Kapil Dahiya

16.12.2024

Pr : Ld. Counsel Sh. Amit Bajaj for petitioner.  
Ld. Counsel Sh. Rahul Dahiya for respondent.

Respondent's counsel files an application under Order VIII Rule 1A(3) read with section 151 of CPC along with several documents including a pen drive and a certificate under section 65B of Evidence Act. Copy of the entire set including the pen drive given to petitioner's counsel. Petitioner's counsel seeks time to file reply to this application.

Respondent's counsel files another application under section 26 of HMA for visitation rights. Copy given. Petitioner's counsel seeks time to file reply to this application.

Respondent's counsel files evidence by way of affidavit of respondent. Copy already given.

At this stage, petitioner's counsel moves an application under section 151 of CPC for discarding the evidence by way of affidavit of the respondent. Copy given. Respondent's counsel seeks time to file reply to this application.

Respondent's counsel states that he will examine three witnesses including the respondent. However, there is no list of witnesses of the respondent. Respondent's counsel now states that he will file the list of witnesses within the next seven days. Respondent shall also file the evidence by way of affidavit of the other two witnesses proposed to be examine within the next two weeks with advance copy of the same to the opposite side.

List for reply/arguments on the aforesaid application(s) on 15.02.2025.

(M. P. Singh)  
Judge, Family Court  
Central, THC, Delhi  
16.12.2024

7. Learned counsel for the petitioner further submits that the respondent herein had sought adjournments before the learned Family Court on two occasions, *i.e.*, 15.02.2025 and 03.05.2025. The orders passed by the learned Family Court on the said dates are reproduced as under: -



15.02.2025

HMA No.1822/22  
Harleen Kaur v. Kapil Dahiya

Pr : Proxy Counsel Sh. Mukesh Kumar for petitioner.

Ld. Counsel Sh. Rahul Dahiya for respondent, through VC.

Matter is listed today for reply/arguments on applications. However, on behalf of petitioner there is a request for adjournment on the ground that main counsel is not available today. List for reply/arguments on applications on 03.05.2025.

(M. P. Singh)  
Judge, Family Court  
Central, THC, Delhi  
15.02.2025

03.05.2025

Pr : Ld. Counsel Sh. Puneet Bajaj for petitioner, through VC.

Ld. Counsel Sh. Rahul Dahiya for respondent.

On behalf of petitioner there is a request for adjournment on the ground that the arguing counsel Mr. Amit Bajaj is presently travelling. Adjournment not opposed. List for arguments on the applications on 26.07.2025.

(M. P. Singh)  
Judge, Family Court  
Central, THC, Delhi  
03.05.2025

8. Learned counsel for the petitioner further draws attention of this Court to order dated 26.07.2025 passed by the learned Family Court and submits that on the said date, the matter was fixed for hearing of the aforesaid applications,



however, the learned Family Court had wrongly recorded that the matter was fixed for RE that day. The order dated 26.07.2025 is reproduced as under: -

HMA No. 1822/22  
Harleen Kaur Vs. Kapil Dahiya

26.07.2025

Present : Mr. Amit Bajaj, Id. counsel with Petitioner.  
Mr. Rahul Dahiya, Id. counsel for Respondent.

The case is fixed for RE as well as arguments on interim applications of parties.

Respondent is directed to appear in person on NDOH.

Matter be listed for arguments on all pending applications and RE on 22.09.2025 at 12.00 PM

(Tyagita Singh)  
Judge / Family Court - 01  
District Central, THC, Delhi / 26.07.2025

9. Learned counsel of the petitioner further submits that on 22.09.2025, there was no occasion for conducting RE of the petitioner, as the petitioner had engaged a new counsel, who had appeared before the learned Family Court for the first time. The order dated 22.09.2025 is reproduced as under: -



HMA No. 1822/22  
Harleen Kaur Vs. Kapil Dahiya

22.09.2025

Present : Petitioner in person.  
Mr. Akash Dahiya, Id. proxy Counsel for Respondent.  
(Memo of appearance filed)

The case is fixed for RE and evidence by way of affidavit of RW-1 is on record but respondent has not appeared despite directions to appear in person. Rather, the respondent has changed the counsel and new counsel has filed memo of appearance today and requested for an adjournment. He has stated that respondent is suffering from paralysis but petitioner has contested that respondent is not suffering from any such problem and has intentionally not appeared today despite directions.

Matter be listed for appearance of respondent in person /  
RE / further hearing on pending IAs on 29.10.2025 at 2.00 PM

(Tyagita Singh)  
Judge / Family Court - 01  
District Central, THC, Delhi / 22.09.2025

10. In view thereof, learned counsel for the petitioner further submits that the effective date for the RE to be conducted was 29.10.2025. It is further stated that on the said date, the petitioner was suffering from fever and he could not appear before the learned Family Court to tender his evidence, and in support of the same necessary medical documents were also placed on record before the learned Family Court; however, the learned Family Court, while ignoring the said fact, had imposed a cost of INR 10,000/- on the petitioner and had granted him a last and final opportunity for completion of RE. It is further



pointed out that on the said date, an application under Order XI Rule 14 CPC had also been preferred by the present petitioner for production of certain documents. Learned counsel for the petitioner further submits that the said order wrongly records that repeated opportunities were granted to the petitioner for conducting RE, and it is only on 29.10.2025, the first opportunity to conduct RE arose. The order dated 29.10.2025 is reproduced as under: -



HMA No.1822/22

Harleen Kaur v. Kapil Dahiya

29.10.2025

Pr : Petitioner with counsel Sh. Amit Bajaj.  
Counsel Sh. Akash Dahiya for respondent.

Respondent has not appeared in person despite repeated directions. Affidavit of evidence of respondent/ RW-1 is already on record and case is pending for respondent's evidence since 16.12.2024 but respondent is not coming for tendering his affidavit and for cross examination despite grant of four opportunities. Today counsel for respondent has filed copy of medical prescription of respondent stating that respondent is suffering from fever. Ld. Counsel for respondent has further stated that respondent is paralytic. On the other hand, ld counsel for petitioner has vehemently opposed the adjournment and stated that respondent is perfectly fine and he is appearing as Standing Counsel and Govt. Pleader for Central Government in the Hon'ble High Court of Delhi and Hon'ble Supreme Court of India and his empanelment has been renewed recently.

At request, last and final opportunity is granted to respondent for completion of respondent's evidence subject to **cost of Rs.10,000/-** to be paid by respondent to petitioner by next date. **It is clarified that if respondent does not appear on next date for his evidence, the right of respondent lead evidence shall be closed and his defence will be struck off.**

Fresh application under Order 11 Rule 14 CPC has been filed by respondent for direction to petitioner to produce certain documents. Copy supplied. Reply may be filed by petitioner within 2 weeks with advance copy to the opposite party.

Application of petitioner under section 26 HMA for permanent custody and maintenance of the minor child is pending since long time. Ld. Counsel for petitioner has stated that he wants to press the application for interim maintenance of the child as even the respondent



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had admitted in his reply that he is ready to bear 50% of the total expenses of the child. Ld. Counsel for petitioner has stated that the school fees of the child is Rs.28,000/- per month approximately and besides this, expenditure is being incurred by petitioner towards extra curricular and sport classes of the child apart from expenditure on regular maintenance of the child since the child is in the custody of the petitioner since the date of separation of the parties.

Arguments on above said application under section 26 HMA on behalf of petitioner heard. Copies of school fees receipts and other expenditure of the child may be filed within 2 weeks.

At request, last and final opportunity is granted to ld. counsel for respondent for arguments on the above said application on next date.

Be fixed for respondent's evidence and arguments on application under section 26 HMA as last and final opportunity to the respondent on 24.11.2025 at 2.00 pm.

  
(Tyagita Singh)  
Judge, Family Court-01  
Central, THC, Delhi/29.10.2025

11. Learned counsel for the petitioner further submits that on 24.11.2025, the learned Presiding Officer was on leave, and the matter was then adjourned for 15.12.2025, *i.e.*, the date of passing of the impugned order. Learned counsel for the petitioner submits that on 15.12.2025, the Divorce proceedings were taken up for hearing at 10:00 AM upon a request being made by the opposite side, despite there being a categorical direction in the order dated 29.10.2025



that the matter will be taken up at 02:00 PM on 24.11.2025. It is further pointed out that the aforesaid application filed by the parties before the learned Family Court were taken up for hearing the very same day, post lunch time, *i.e.*, 02:30 PM. The impugned order dated 15.12.2025 is reproduced as under: -



HMA No. 1822/22  
Harleen Kaur Vs. Kapil Dahiya

12.2025

Present : Mr. Amit Bajaj, Id. counsel with Petitioner.  
Mr. Shubham Bhushan, Id. Proxy counsel for  
Respondent.

Previous cost of Rs.10,000/- in cash paid to petitioner by Id  
proxy counsel for respondent.

Respondent has not appeared in person despite specific  
directions vide previous orders and despite the fact the case is fixed for  
RE and respondent is supposed to appear in person for recording his  
evidence. Evidence by way of affidavit of respondent dated 09.12.2024 is  
already on record but respondent has not appeared since many dates for  
examination in chief and cross-examination. No exemption application  
has been filed today and only one copy of document of AIIMS, OPD  
Departement has been filed and it has been stated that respondent is  
suffering from paralysis. Ld. Proxy counsel for respondent has stated  
that respondent has appointment in Medanta Hospital today due to his ill  
health, due to which he cannot appear today physically.

Ld. counsel for petitioner has strongly opposed that  
respondent is healthy and perfectly fine and petitioner has filed  
documents on record to show that respondent is living an active life and  
he is on panel of Govt. of India, UPSC, MCD etc. and he is practising  
Advocate who is regularly appearing before various Courts but he is  
intentionally avoiding appearance before this Court to delay the  
proceedings.

Perusal of order dated 29.10.2025 reveals that last and final  
opportunity was granted to respondent for personal appearance for his  
evidence and it was warned that if respondent does not appear on NDOH,  
his right to lead Defence Evidence shall be closed. Still the respondent  
has failed to appear today. Therefore, no further opportunity can be  
granted to respondent for leading his Evidence. ***Right of respondent to  
lead RE stands closed.***

Page no. 1 of 2



HMA No. 1822/22  
Harleen Kaur Vs. Kapil Dahiya

..2..

Arguments on application under section 26 of HMA for interim maintenance for child heard on behalf of petitioner. Ld. counsel for petitioner has already placed on record the school fees / tuition fees certificate of the child, alongwith other expenses and expenses of extra curricular activities. Ld. counsel for petitioner has stated that respondent has already stated in reply to the application that he is ready and willing to share 50% expenses towards maintenance of the child.

Be fixed for arguments on abovesaid application on behalf of respondent at 2.00 PM.

(Tyagita Singh)  
Judge / Family Court - 01  
District Central, THC, Delhi / 15.12.2025 (bb)

At 2.30 PM

Present: Mr. Amit Bajaj, Id. counsel with Petitioner.  
Mr. Shubham Bhushan, Id. Proxy counsel for Respondent.

Ld proxy counsel for respondent has stated that main counsel Sh. Rakesh Dahiya is held up in the Hon'ble Supreme Court of India in final arguments in some matter and he cannot appear either physically or through VC today for addressing arguments on application of petitioner under section 26 of HMA.

On the last date of hearing i.e. on 29.10.2025, respondent was given last and final opportunity for arguments on application under section 26 of HMA filed by petitioner but main counsel for respondent has not appeared to address arguments and Id proxy counsel for respondent has stated that he has no instructions to argue on the application. *Therefore, no further opportunity can be granted to respondent for arguments.* Matter be fixed for order on application under section 26 of HMA on 24.12.2025

(Tyagita Singh)  
Judge / Family Court - 01  
District Central, THC, Delhi / 15.12.2025 (bb)  
Page no. 2 of 2

07 JAN 2026



12. Learned counsel for the petitioner further submits that the latter had suffered from brain stroke and is taking medical therapies for recovering from various medical conditions. It is submitted that in view of the same, the petitioner had to resign from various legal panels, and he had only started appearing before various forums as an Advocate since January, 2023.

13. Learned counsel for the petitioner further submits that the learned Family Court ought to have decided the aforesaid applications filed on behalf of the parties, before closing the petitioner's right to lead RE.

14. In view of the aforesaid submissions, learned counsel for the petitioner prays that an opportunity may be granted to the latter for completion of his RE, subject to payment of cost.

15. *Per contra*, learned counsel appearing on behalf of the respondent draws attention of this Court to order dated 21.11.2023 passed by the learned Family Court and submits that the issues in the Divorce proceedings were framed on the said date of hearing and the learned Family Court had directed both the parties to file their respective list of witnesses within 15 days, and despite the said directions, the petitioner did not file his list of witnesses in due time. The order dated 21.11.2023 passed by the learned Family Court is reproduced as under: -



HMA No.1822/22  
Harleen Kaur v. Kapil Dahiya

21.11.2023

Pr : Clerk of counsel for petitioner.

Ld. Counsel Sh. Manoj Kumar for respondent.

Replication was filed on 19.10.2023.

Pleadings are complete. On the basis of pleadings of parties, following issues are hereby framed:

- (i) Whether the petitioner proves that the respondent has treated her with cruelty? OPP
- (ii) Whether the petitioner proves that the respondent has deserted her for a continuous period of not less than two years immediately preceding presentation of the petition? OPP
- (iii) Whether the petitioner is entitled for a decree of divorce on the ground of cruelty and/or desertion? OPP
- (iv) Relief.

List for evidence of petitioner on 05.02.2024. Both the sides are directed to file their list of witnesses within 15 days from today with advance copy to each other. Petitioner is directed to file her evidence by way of affidavit with advance copy to the opposite side.

21/11/2023  
(M. P. Singh)  
Judge, Family Court  
Central, THC, Delhi  
21.11.2023

16. Learned counsel for the respondent further draws attention of this Court to the orders dated 04.03.2024 and 09.04.2024 passed by the learned Family Court to contend that the petitioner, on the pretext of exploring settlement, had sought adjournments on two occasions before the learned Family Court. It is further submitted that when the learned Family Court had asked the petitioner to appear before it, the counsel appearing on behalf of the petitioner had stated



that the petitioner was not medically fit to appear before the learned Family Court. The said orders are reproduced as under: -

HMA No.1822/22  
Harleen Kaur v. Kapil Dahiya

04.03.2024

Pr : Petitioner with proxy counsel Sh. Mukesh Kumar.

Counsel Sh. Rahul Dahiya for respondent.

Petitioner (PW-1) is to be cross examined. However, respondent's counsel, who also happens to be younger brother of respondent, seeks a short time to make efforts for settlement.

Petitioner does not oppose grant of short adjournment for the purpose of settlement.

List on 09.04.2024.

(M. P. Singh)  
Judge, Family Court  
Central, THC, Delhi  
04.03.2024

09.04.2024

Pr : Petitioner with Ld. Counsel Sh. Amit Bajaj.

Ld. Counsel Sh. Rahul Dahiya for respondent.

Matter is at the stage of PE. Petitioner (PW1) is to be cross-examined. However, respondent's counsel states that he is not ready with the cross-examination. He submits that talks for reconciliation could not commenced due to certain circumstances. Adjournment as sought for by the respondent is vehemently opposed by petitioner.

At this stage, I put it to counsel for the respondent as to whether respondent can appear on the next date of hearing, so that the Court can speak to both the parties *in camera* for an amicable settlement. To this, respondent's counsel states that respondent is not medically fit to come to the Court.

List for PE on 14.05.2024.

(M. P. Singh)  
Judge, Family Court  
Central, THC, Delhi  
09.04.2024



17. Learned counsel for the respondent further submits that the petitioner had failed to appear before the learned Family Court on various occasions, and did not participate in the Divorce proceedings on one pretext or another. It is further submitted that sufficient opportunities had already been granted to the petitioner by the learned Family Court; however, the petitioner only intended to delay the Divorce proceedings. In this regard, learned counsel for the respondent draws attention of this Court to the order dated 31.05.2024 passed by the learned Family Court, whereby on an earlier occasion, the right of the petitioner to cross examine the respondent had been closed. It is further submitted that even the learned Family Court had taken note of the conduct of the petitioner in the said order and had observed that the petitioner was intentionally trying to delay the Divorce proceedings. It is further submitted that the learned Family Court *vide* the said order had re-notified the matter on 29.07.2024 for the purposes of RE, and thus, the submission of the petitioner that the first effective date for the RE was 29.10.2025 is untenable. The order dated 31.05.2024 reads as under: -



HMA No.1822/22  
Harleen Kaur v. Kapil Dahiya

31.05.2024

Pr : Petitioner with Ld. Counsel Sh. Amit Bajaj.  
Proxy counsel Sh. Manoj Kumar for respondent.

On behalf of respondent there is a request for adjournment on the ground that main counsel Mr. Rahul Dahiya is not keeping well. Copy of medical prescription dt. 30.05.2024 is filed today.

In this case petitioner was examined-in-chief on 05.02.2024 and on which date she was not cross-examined as there was a request for adjournment on respondent's behalf. Thereafter, on 04.03.2024 she was again not cross-examined as adjournment was taken on respondent's behalf. Then on 09.04.2024 she was again not cross-examined as respondent's counsel stated that he had not prepared himself for the cross-examination. On 14.05.2024 respondent's counsel entered appearance only at 02:00 pm and he partly cross-examined the petitioner (PW1) and thereafter he took adjournment which was granted on payment of cost of Rs. 5,000/-. It is submitted today that cost of Rs.5,000/- was paid through online mode on 30.05.2024.

It is to be noted that petitioner is a government employee. She has to take leaves from her office. She is also single handedly taking care of the male child who is presently about 8 years old. Petitioner is herself bearing all the expense of the child without any support from the respondent.

It appears that the respondent is intentionally trying to delay this matter and this is very much apparent from the conduct of taking repeated adjournments.

Given the circumstances, this Court hereby closes respondent's right to further cross-examine the petitioner (PW1).

At this stage, Ld. Counsel for petitioner states that he does not wish to examine any other witness.

List now for RE on 29.07.2024. Advance copy of evidence by way of affidavit of respondent's witness(es) shall be supplied to petitioner.

(M. P. Singh)  
Judge, Family Court  
Central, THC, Delhi  
31.05.2024

18. Learned counsel for the respondent submits that after the aforesaid order dated 31.05.2024 was passed, the petitioner had moved an application before the learned Family Court under Order XVIII Rule 17 read with Section 151 of the CPC, seeking reopening of his right to cross examine the respondent. It is further submitted that the said application was allowed by the learned Family



Court *vide* order dated 29.07.2024 and the petitioner herein, was granted 150 more minutes to conclude the cross examination of the respondent, subject to cost of INR 5,000/-. The order dated 29.07.2024 is reproduced as under: -

HMA No.1822/22

Harleen Kaur v. Kapil Dahiya

29.0.2024

Pr : Ld. Counsel Sh. Amit Bajaj for petitioner.

Ld. Counsel Sh. Rahul Dahiya for respondent.

1. On 26.07.2024 respondent moved an application under Order XVIII Rule 17 read with section 151 of CPC. Petitioner's counsel states that he has already received copy of this application. Ld. Counsel for the petitioner states that he is ready to argue on this application straightaway without filing any reply. Petitioner's counsel has vehemently opposed this application. He states that this application has been filed only to delay the proceedings.
2. This is a divorce petition filed in year 2022. It is always fit and appropriate that the matter are decided on their merits. For reasons mentioned in the application, the same is hereby allowed subject to payment of cost of Rs. 5,000/- to be paid to the petitioner. Respondent shall have 150 more minutes to conclude the cross-examination of petitioner (PW1).
3. Petitioner's counsel states that petitioner will not examine any other witness apart from herself. Respondent will furnish his evidence by way of affidavit on the date when PE is closed.
3. List for PE on 15.10.2024 at 10:00 am and 22.10.2024 at 10: 00 am.

(M. P. Singh)

Judge, Family Court

Central, THC, Delhi

29.07.2024

ATTESTED



19. Learned counsel for the respondent submits that on 15.10.2024, further cross examination of the respondent was conducted by the petitioner, and on 22.10.2024, the said cross examination was concluded and the matter was adjourned for RE, with a direction to the petitioner to supply an advance copy of his evidence by way of affidavit.

20. Learned counsel for the respondent further draws attention of this Court to the order dated 16.12.2024 passed by the learned Family Court to contend that when the matter was fixed for RE, the petitioner, with an intent to delay the proceedings, had filed an application under Order VIII Rule 1A(3) read with Section 151 CPC along with another application under Section 26 of the Hindu Marriage Act, 1955, seeking visitation rights. It is further stated by the learned counsel for the respondent that on the said date, the petitioner had filed his evidence by way of affidavit before the learned Family Court, and since the contents thereof travelled beyond the scope of the pleadings, the respondent had filed an application under Section 151 of the CPC seeking discarding of the said evidence by way of affidavit filed on behalf of the present petitioner. It is further submitted that while framing issues in the Divorce proceedings *vide* order dated 21.11.2023, the learned Family Court had directed the petitioner to file the list of witnesses; however, the petitioner failed to do so, and the said conduct of the petitioner was also recorded in the order dated 16.12.2024. It is further submitted that the petitioner had also been directed to file evidence by way of affidavit of the remaining two witnesses, which he failed to file till date.

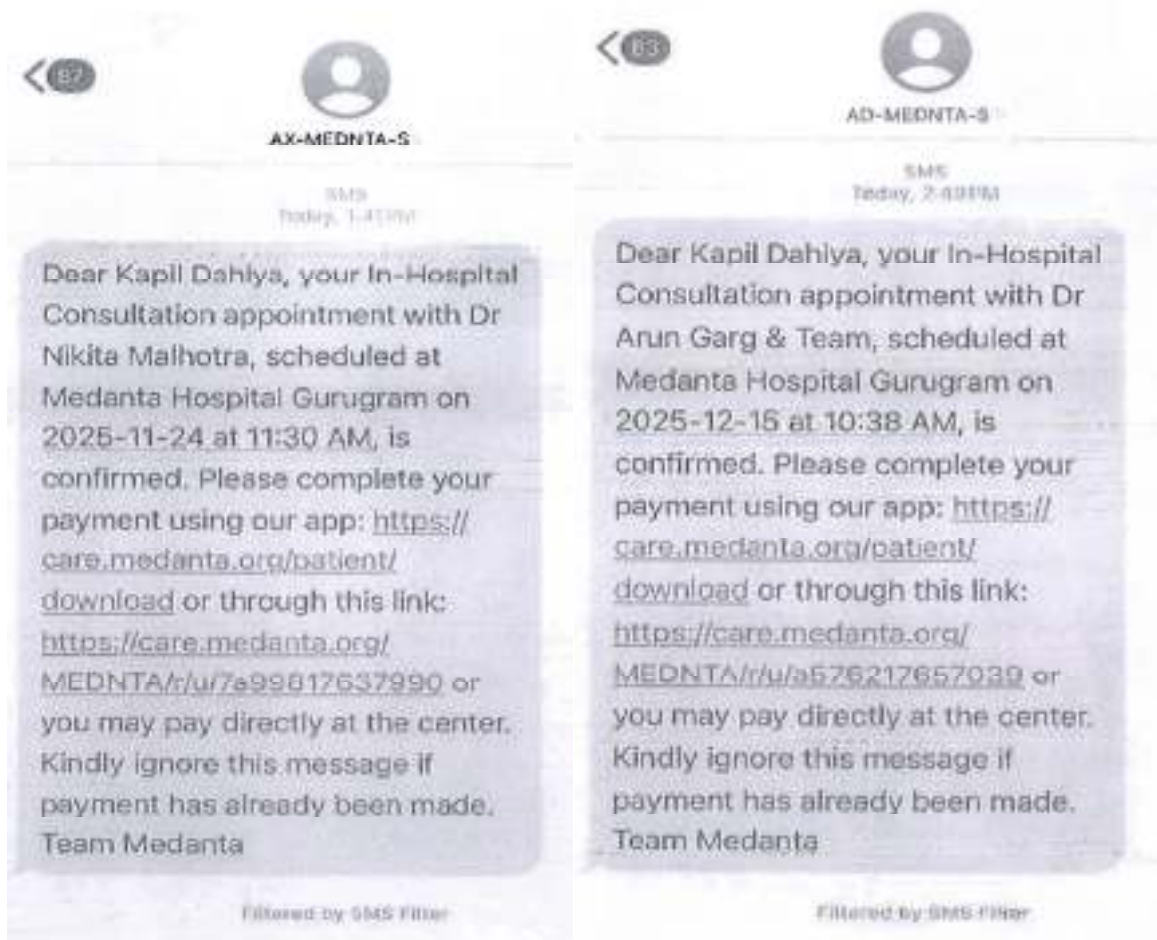
21. Learned counsel for the respondent further draws attention of this Court to the order dated 26.07.2025 passed by the learned Family Court to contend that there was a categorical direction of the learned Family Court for the petitioner to appear in person on the next date of hearing, *i.e.*, 22.09.2025;



however, the petitioner did not appear before the learned Family Court and had rather changed his counsel, who had further requested for an adjournment.

22. Learned counsel for the respondent further draws attention of this Court to the order dated 29.10.2025 passed by the learned Family Court to contend that even on the said date, the petitioner had failed to appear in the Divorce proceedings and the learned Family Court, while taking note of the same, had imposed a cost of INR 10,000/- on the petitioner, and had given the petitioner a last and final opportunity to lead his RE, and in case he failed to do so, his right would stand closed and his defence would be struck off.

23. At this stage, learned counsel for the respondent draws attention of this Court to the medical documents annexed by the petitioner along with the present petition, and in particular, to the following two communications received by the petitioner from Medanta Hospital, regarding his medical appointments. The said communications are reproduced as under: -



Learned counsel for the respondent submits that the said communications pertain to the medical appointments booked by the petitioner for himself for 24.11.2025 at 11:30 AM and 15.12.2025 at 10:38 AM, *i.e.*, the very dates when the matter was listed before the learned Family Court. It is submitted that the same clearly shows that these appointments were taken by the petitioner on the exact dates when the Divorce proceedings were listed before the learned Family Court and had rely upon the same as a ground for non-appearance.



24. Learned counsel for the respondent further submits that the petitioner had also filed a transfer petition before the learned Principal Judge, Family Court, Tis Hazari Courts, being Civil TP No. 1/2026 seeking transfer of the Divorce proceedings, which was dismissed *vide* order dated 17.03.2026. It is further submitted that the petitioner had also preferred a *habeas corpus* petition being W.P. (CRL) 735/2026 and the same was dismissed as withdrawn *vide* order dated 10.03.2026 passed by the learned Division Bench of this Court.

25. Heard the learned counsels for the parties and perused the records.

26. Learned counsel for the respondent has handed up in Court today multiple orders passed by this Court as well as the Hon'ble Supreme Court, wherein the appearance of the present petitioner has been recorded as a counsel, and the same are taken on record. Attention of this Court has specifically been drawn to the orders dated 14.02.2024 passed in Civil Appeal No. 7906/2010 and 26.02.2024 passed in SLP (C) 21647/2023 by the Hon'ble Supreme Court, wherein the appearance of the present petitioner was recorded as a counsel. In this regard, learned counsel for the respondent points out that despite the petitioner having appeared before the Hon'ble Supreme Court on the aforesaid dates, the learned Family Court, *vide* order dated 09.04.2024, had recorded the submission advanced on behalf of the petitioner that he was medically unfit to appear in the divorce proceedings. During the course of arguments, learned counsel for the respondent had pointed out that the petitioner had not appeared before the learned Family Court till the filing of the present petition for any hearing including mediation.

27. A perusal of the order dated 29.10.2025 reflects that the learned Family Court had taken note of the fact that the matter was pending for RE since 16.12.2024, and despite the same, the petitioner herein had not appeared before



the learned Family Court to conduct the same. The said order further records the contention of the present respondent that the petitioner had been appearing as a counsel before various Courts during that point of time. In this regard, it would be apposite to refer to the order dated 21.11.2023 passed by the learned Family Court, whereby issues were framed in the Divorce proceedings and the parties were directed to file their list of witnesses. It is further noted that *vide* order dated 29.07.2024, the petitioner was directed to furnish his evidence by way of affidavit on completion of respondent's evidence, which took place on 22.10.2024, and therefore, the contention of the learned counsel for the petitioner that it was only on 29.10.2025 that first effective opportunity was granted to the latter to lead RE, is not made out.

28. It is also not in dispute that on 31.05.2024, the right of the petitioner to cross examine the respondent had been closed by the learned Family Court, and thereafter, an application under Order XVIII Rule 17 read with Section 17 of the CPC, was preferred by the present petitioner in the Divorce proceedings, which was allowed by the learned Family Court *vide* order dated 29.07.2024, and the right of the petitioner to cross examine the present respondent was reopened, subject to cost of INR 5,000/-. The same substantiates that adequate opportunities had been granted by the learned Family Court to the petitioner to diligently pursue the Divorce proceedings.

29. A perusal of the order dated 29.10.2025 passed by the learned Family Court further reflects that despite repeated directions, the petitioner had failed to appear before the learned Family Court for leading RE, and the learned Family Court, while taking note of the same, had granted a last and final opportunity to the petitioner to conduct RE, subject to payment of cost of INR 10,000/-.



30. Though the petitioner had placed on record certain medical documents before this Court as well as the learned Family Court, the same do not sufficiently explain the repeated defaults on the part of the petitioner in appearing before the learned Family Court. This Court further finds merit in the submissions advanced on behalf of the respondent that despite the petitioner's non-appearance before the learned Family Court on medical grounds, his appearance continued to be recorded in multiple orders passed by this Court as well as the Hon'ble Supreme Court during the relevant period.

31. Normally, this Court would be inclined to grant indulgence in matrimonial proceedings, considering the nature of the dispute involved; however, in the peculiar facts of the present case, the conduct of the petitioner, as borne out from the record, clearly demonstrates that he has consistently attempted to delay the divorce proceedings at every stage. It is further noted that despite repeated opportunities and sufficient indulgence having been granted by the learned Family Court, the petitioner failed to diligently pursue the Divorce proceedings and had tried to stall the said proceedings, on one pretext or another.

32. The Hon'ble Supreme in **Nandi Infrastructure Corridor Enterprises Ltd. v. B. Gurappa Naidu**<sup>5</sup>, has held that the jurisdiction under Article 227 is to be exercised by this Court only in the cases where there has been an unwarranted assumption of jurisdiction, gross abuse of jurisdiction, or an unjustifiable refusal to exercise jurisdiction vested in the Courts or Tribunals. The relevant portion(s) of the said judgment is reproduced as under: -

“35. In short, the principles laid down in the above matters is as follows:

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<sup>5</sup> 2026 SCC OnLine SC 745



a) The power of superintendence under Article 227 is not to be exercised unless there has been an (a) unwarranted assumption of jurisdiction, not vested in Court or tribunal, or (b) gross abuse of jurisdiction or (c) an unjustifiable refusal to exercise jurisdiction vested in Courts or tribunals.

b) It is also well settled that the High Court while acting under this Article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record.

c) The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal.”

33. Thus, in view of the aforesaid judgment and having regard to the facts and circumstances of the present case, this Court is of the considered opinion that the impugned order passed by the learned Family Court warrants no interference. The learned Family Court had acted well within its jurisdiction and was justified in closing the right of the petitioner to lead RE, particularly after granting repeated opportunities and sufficient indulgence to the petitioner.

34. The present petition is dismissed and disposed of accordingly.

35. Pending application(s), if any, also stands disposed of.

36. Copy of this order be sent to the learned Judge, Family Court-01, Central District, Tis Hazari Courts, for necessary information.

37. Order be uploaded on the website of this Court, *forthwith*.

**AMIT SHARMA, J**

**MAY 11, 2026/db**