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

+ **TR.P.(C.) 200/2025 & CM APPL. 70897/2025**

SH TAMILARASAN RAJENDRAN

.....Petitioner

Through: Ms. Vibha Mahajan Seth, Sr. Adv.
with Dr. Gaurav Manuja and Ms.
Anjali Maurya, Advs.

versus

SMT SHERLY PANNEER

.....Respondent

Through: Mr. Varchaswa Singh, Adv. through
Vc.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **16.04.2026**

1. This hearing has been done through hybrid mode.
2. The present petition under Section 24 of the CPC seeks the following prayers: -

“i. Transfer Guardianship Petition No. 6/2023, titled "*Tamilarasan Rajendranvs Sherly Panneer*", pending before the Learned Principal Judge, Family Court, East District, Karkardooma Courts, Delhi, to the Family Court having jurisdiction over Police Station Madhu Vihar, Shahdara District, Karkardooma Courts, Delhi;

ii. Pass such other or further order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in favour of the applicant.”

3. Learned Senior Counsel appearing on behalf of the petitioner submits that the subject guardianship petition was filed before learned Principal Judge, Family Court, East District, Karkardooma Courts, Delhi and during the



pendency of the said petition, the respondent moved an application seeking dismissal of the subject guardianship petition on the ground of maintainability. It is pointed out that amongst various other grounds taken by the respondent, one of the ground was that in the petition itself it had been mentioned that the temporary shelter of the applicant/ respondent herein was in the territory of Shahdara District wherefrom the minor child was shifted permanently to Australia in October, 2022. Learned Senior Counsel further submits that even as per the memo of parties placed along with the guardianship petition, following addresses were mentioned: -

- i) G-169, Preet Vihar, Delhi- 110092.
- ii) B-11, Indraprastha Apartments, Patparganj, I.P. Extension, Delhi- 110092.

4. Learned Senior Counsel submits that the guardianship petition was filed with respect to the address of Preet Vihar, which falls within the jurisdiction of East District and the other address namely, B-11, Indraprastha Apartments, Patparganj, I.P. Extension, Delhi- 110092 falls within the jurisdiction of Shahdara District.

5. Reliance is placed on the judgment of learned Single Judge of this Court in CM(M) 3824/2024 dated 01.04.2025, to show that even if an objection is taken with respect to the territorial jurisdiction, this Court would be well within its power to transfer the petition to the competent jurisdiction in order to avoid prejudice to the petitioner and particularly on the following paragraphs: -

“14. Order 7 Rule 11 of the Code provides that the plaint, at any stage of the suit, be returned to be presented to the Court in which the suit should have been instituted. Upon return of the plaint under Order 7 Rule 10 of the Code on its presentation before the



appropriate court of jurisdiction, the suit would be treated as a fresh suit and would have to start de novo and all proceedings before the earlier court would be rendered a nullity.

15. In order to avoid such consequences of loss of all proceedings that may have taken place before the earlier court, either of the parties may take recourse to Section 24 of the Code, which empowers the High Court or the District Court, on its own motion or otherwise to transfer any suit, appeal or other proceedings pending before it for trial or disposal to any court subordinate to it, or withdraw any suit, appeal or proceeding pending in any court subordinate to and inter alia transfer the same for trial for disposal to any court subordinate to it and competent to try and dispose of the same. Sub Section 5 of Section 24 states that such power of transfer can be exercised to transfer the suit or proceeding from a court which has no jurisdiction to try it.

16. Learned Single Judge in **Namita Gupta Vs. Suraj Holdings Ltd., 2024 DHC 122**, succinctly, explained the difference between Section 24 and Order VII Rule 10 of the Code in Para No. 58 of the judgment as under:-

“58. The difference between Section 24 and Order VII Rule 10 of the CPC is that in terms of Sub-Section (2) of Section 24, where any Suit or proceeding has been transferred or withdrawn, the Court which is thereafter to try or dispose of such Suit or proceeding may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn. Therefore, all proceedings that were undertaken before the Court where a Suit was earlier instituted, though it lacked jurisdiction to try the same, can be saved, and the Suit on its transfer can be proceeded from the point at which it was transferred.”

17. Similarly, in the case of **Mahesh Gupta Vs. Ranjit Singh & Ors. 2009 SCC On-Line Del. 1418**, the Division Bench of this Court was considering the challenge to the order returning the plaint on the ground of lack of pecuniary jurisdiction to be filed before the appropriate court having pecuniary jurisdiction over it. The Court, while upholding the order passed by the learned Single Judge therein, provided that instead of return of the plaint, the Suit be transferred to the competent Court of civil jurisdiction. The court observed as under:-



“11. During the course of hearing of the appeal, the counsel for the appellant/plaintiff contended that the appellant will be caused grave prejudice if the order returning the plaint is sustained in as much as considerable evidence has already been recorded in the suit and, there was also an order of injunction against the respondents/defendants by the consent of the counsel for the parties. Taking into account the considerable time invested by this court in this suit, we have decided to suo moto exercise our powers under Section 24(1) read with Section 24(5) of the Code of Civil Procedure, 1908 and instead of the order returning the plaint as passed by the learned Single Judge, we modify the order of the learned Single Judge and direct that, in the facts of the case, the suit itself be transferred to the competent court of civil jurisdiction. The effect of exercising of powers under Section 24 CPC would mean that the suit would be taken up by the transferee court from the stage at which it was pending before the impugned order dated 16.2.2009 was passed. The learned counsel for the respondents has stated that the respondents wanted to move an application for vacation of the interim order of injunction, but, which he did not do in as much as the matter was heard on the aspect of the lack of pecuniary jurisdiction of the court. Therefore, while directing the transfer of the suit, we further order that the interim order of injunction operating against the respondent in the suit will continue only till the date when the matter is taken up on the first date by the concerned Civil Judge. The Civil Judge will decide afresh the issue of grant or denial of an ad interim/ex-parte injunction on the first date and he will also decide expeditiously, and preferably within four weeks from the first hearing, the injunction application as filed by the plaintiff in the suit. The learned Single Judge should take up the issue of granting or denying of injunction (ex parte/ad interim or pendent lite) entirely uninfluenced by the any observations of this court or the fact that earlier an injunction order was passed by the consent of the parties.”

18. This Court has sufficient power under Section 24 of the Code to transfer the suit to the court of competent jurisdiction. Since the case before the trial court has already reached the stage of defendant's evidence, denovo trial upon the return of the plaint would further delay the plaintiff's case and would cause serious prejudice to the plaintiff, interest of justice therefore demands that in the exercise of powers vested in this Court under Section 24 of the Code, the suit be transferred from the court of learned District Judge-05, East, Karkardooma to the court of learned Principal



District & Sessions Judge, Shahdara, Karkardooma, where the suit property is situated with direction that the case be tried from the stage it is transferred from the transferor court.”

6. Learned Senior Counsel appearing on behalf of the petitioner further relies on the petition filed by the respondent under the provision of Protection of Women of Domestic Violence Act, 2005, which was also filed under the jurisdiction of Shahdara District.
7. *Per contra*, learned counsel appearing on behalf of the respondent submits that the subject guardianship petition filed by the petitioner is not maintainable on account of the fact that the Delhi Courts does not have jurisdiction over the said case. It is pointed out that apart from the objection raised with respect to the territorial jurisdiction of the East District, Karkardooma Court, various other grounds have been taken through its application seeking dismissal of the guardianship petition including the fact that the said petition is infructuous on account of a final judgment already passed by the Australian Family Court on 05.03.2026.
8. Heard the learned counsel for the parties and perused the records.
9. The present petition seeks transfer of the subject guardianship petition from the learned Family Court having jurisdiction over East District to the learned Family Court having jurisdiction over P.S. Madhu Vihar, Shahdara District, Karkardooma Courts.
10. The petitioner in his petition has fairly admitted that the child was last residing within the jurisdiction of Shahdara District before being taken away to Australia. It is also a matter of record that the petitioner had placed on record both the addresses *i.e.*, one, which falls under the jurisdiction of East District and other which falls under the jurisdiction of Shahdara District.



11. In these circumstances, Guardianship Petition bearing no. 6/2023, titled "Tamilarasan Rajendran v. Sherly Panneer", presently pending before the learned Principal Judge, Family Court, East District, Karkardooma Courts, Delhi, is transferred to learned Principal Judge, Family Court, Shahdara District, Karkardooma Courts, Delhi who shall assign the same to the learned Family Court of competent jurisdiction having jurisdiction over P.S. Madhu Vihar, without prejudice to the other objections taken by the respondent in the aforesaid application. Needless to say that this Court has exercised its jurisdiction under Section 24 of the CPC for transferring the subject petition to the learned Family Court having jurisdiction over P.S. Madhu Vihar, Shahdara District, Karkardooma Courts. All other contentions of the respondent with respect to the maintainability and limitation are left open and the same shall be decided by the concerned transferee Court in accordance with law. Let the records of the said petition be transferred to the concerned Court within a period of 10 days. Parties are directed to appear before the concerned Court accordingly. The said petition shall be proceeded from the stage, it is being transferred.

12. With the aforesaid directions, the present petition is disposed of.

13. The concerned learned Judge, Family Court, Shahdara District, Karkardooma Courts, Delhi having jurisdiction over P.S. Madhu Vihar is requested to expedite the hearing of the aforesaid Petition, without giving undue adjournment to either of the parties.

14. Pending applications, if any, also stand disposed of accordingly.

15. Copy of the order be sent to the learned Principal Judge, Family Court, East District, Karkardooma Courts, Delhi and the learned Principal Judge, Family Courts, Shahdara District, Karkardooma Courts, Delhi for necessary



information and compliance.

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

AMIT SHARMA, J

APRIL 16, 2026/kr/sg