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

% *Date of Decision: 21st April, 2025*

+ CM(M) 3748/2024 & CM APPL. 63932/2024

KANCHANA M SHEKHAR

.....Petitioner

Through: Mr. Prashant Mendiratta with Ms.
Veenu Singh, Advocates.

versus

AVINASH SHEKHAR

.....Respondent

Through: Ms. Ritu Singh Mann, Mr. Dheeraj
Kumar Garg and Ms. Shivani,
Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner herein is defending a petition filed by her husband under Section 27 (1)(d) read with Section 38 of the Special Marriage Act, 1954.
2. It seems that the petitioner-wife, somehow, misconstrued one order dated 25.07.2024 as being unjust. Such order divested her of custody of her seven years old daughter and was premised on the ground that there was denial of visitation on her part. Feeling such order to be unreasonable and harsh, *albeit*, unwarrantedly, she moved application under Section 24 CPC requesting the concerned learned Principal Judge, Family Courts to transfer said case to some other Court of Competent jurisdiction.
3. Such request has been declined *vide* order dated 16.10.2024.
4. The challenge herein is to such order.



5. Mr. Prashant Mendiratta, learned counsel for petitioner, submits that there is no question of there being any kind of attribution of any nature whatsoever, against the learned Judicial Officer concerned, who is proceeding with the matter with complete transparency and fairness and also, in accordance with law. He also submits that there is procedure of challenging a judicial order and bias should not have been inferred by her client, merely because the order was against her.

6. During course of the arguments, Mr. Prashant Mendiratta, learned counsel for petitioner, submits that as an Officer of the Court and also as counsel of the abovesaid petitioner, he would have no objection if the matter continues before the same Court. According to him, the petitioner was having some unsubstantiated doubts in her mind, which, unfortunately, resulted in moving of the abovesaid application. He reiterates that the petitioner-wife continues to have utmost regard for the learned judge but somehow, she could not repel apprehension in her mind and he himself also, despite best efforts, could not convince her.

7. Learned Counsel for respondent, who has joined the proceeding through *video conferencing*, has also left it to this Court to pass appropriate order. She submits that if the case is directed to be transferred, it may not be taken as a precedent. She, however, supplements that the impugned order is dated 16.10.2024 and thereafter, there is not much progress in the abovesaid petition.

8. Fact remains that the parties were even referred for Mediation but there was no settlement.

9. The next date before the learned Judge, Family Court is 03.05.2025 and the matter is fixed for recording of evidence.



10. This Court has gone through the impugned order which, really speaking, does not call for any interference, more so, when the learned counsel for petitioner has also, now, left it to this Court to pass any order in the matter. The petitioner must understand that bias cannot be presumed merely for the reason that some order has gone against her. In an adversarial system of law, it is bound to happen, even otherwise and, if aggrieved by any such order, the proper course for any such party is to take permissible steps to challenge the same, instead of harbouring under any such wrong and unwarranted impression.

11. Before passing the impugned order, the learned Principal Judge had called for the comments of the concerned court which reflects that said court has no objection if the case is transferred to some other court and, therefore, keeping in mind the overall facts and circumstance of the case and to ensure that there is no further delay in the matter, the petition is disposed of by directing that the matter in question would be taken up and tried further by the court of learned Principal Judge, Family Courts, Patiala House, New Delhi.

12. The petition stands disposed of in aforesaid terms and the parties shall appear before the learned Transferee Court on the scheduled date i.e. 03.05.2025.

13. Pending application stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

APRIL 21, 2025/sw/SS