



2026:DHC:6500



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 10.08.2026**# **CNR No. DLHC010365382026**

+ TR.P.(C.) 144/2026, CM APPL. 52579/2026 (Ex. From filing the certified copy of the transfer petition), CM APPL. 52580/2026 (Stay) & CM APPL. 52581/2026 (Delay of 23 days in filing the petition)

MOHAMMAD AHMAD

.....Petitioner

Through: Ms. Santosh and Mr. Noor-Ul-Islam, Advocates.

versus

ASHA MALIK AND ANR.

.....Respondents

Through: Mr. Sarojanand Jha, Ms. Rajreeta Ghosh, Mr. Rahul Kumar and Ms. Muskan Saxena, Advocates.

CORAM:**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR**

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JUDGEMENT (Oral)

1. The present Petition has been filed under Section 24 read with Section 151 of the **Code of Civil Procedure, 1908**¹, seeking transfer of CS (COMM.) 394/2025, titled "*Asha Malik v. Mohammad Ahmad*", along with the connected proceedings being MISC. DJ 320/2026 and Execution (Commercial) 32/2026, pending before the **Court of the learned District Judge (Commercial Court-04), Shahdara District, Karkardooma Courts, Delhi**², to any other

¹ CPC² learned Trial Court



2026:DHC:6500



competent Commercial Court in Delhi.

2. Learned counsel appearing on behalf of the Petitioner submits that the Petitioner has a genuine and reasonable apprehension that he would not be able to secure a fair adjudication of the proceedings before the learned Trial Court.

3. She submits that such apprehension has arisen on account of certain oral observations and statements made by the learned Trial Court during the course of proceedings.

4. She further submits that the learned Trial Court has expressed reluctance to entertain an Application filed by the Petitioner under Order XI Rule 13 of the CPC. It is contended that the manner in which the aforesaid observations came to be made has given rise to a reasonable apprehension in the mind of the Petitioner regarding the manner in which his case would be considered.

5. It is also submitted that the learned Trial Court has, on certain occasions, extended undue indulgence to the counsel appearing on behalf of the Respondents with respect to the filing of certain applications seeking detention of the Petitioner.

6. On the aforesaid basis, learned counsel submits that the apprehension entertained by the Petitioner is not fanciful or imaginary but arises from the manner in which the proceedings have allegedly been conducted before the learned Trial Court. It is, therefore, prayed that the proceedings be transferred to another competent Commercial Court in Delhi.

7. This Court has heard the learned counsel appearing on behalf of the Petitioner and has also perused the contents of the present Petition.

8. The principal basis on which transfer is sought is the apprehension expressed by the Petitioner on account of certain oral

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TR.P.(C.) 144/2026

Page 2 of 5



2026:DHC:6500



observations allegedly made by the learned Trial Court during the course of proceedings. The allegations also seek to attribute a degree of indulgence to the counsel appearing on behalf of the Respondents and allege that the learned Trial Court had advised the said counsel regarding the filing of applications for the detention of the Petitioner.

9. This Court is of the view that allegations of such nature against a Judicial Officer cannot be lightly made merely on the basis of oral observations or statements made during the course of a hearing.

10. A judicial proceeding necessarily involves interaction between the Court and the counsel appearing before it, and observations made during the course of such proceedings cannot, by themselves, be treated as a determination of the issues arising between the parties.

11. More importantly, the present Petition does not point out any adjudication by the learned Trial Court whereby the Petitioner's substantive rights have been determined adversely on account of any alleged bias or preferential treatment. The apprehension pleaded by the Petitioner is founded essentially upon the manner in which certain proceedings have transpired and upon oral observations allegedly made during the hearing.

12. This Court is also unable to accept that the mere alleged expression of reluctance by the learned Trial Court to entertain an Application under Order XI Rule 13 of the CPC, without there being any adjudication on the application itself, can constitute a sufficient basis for the extraordinary relief of transfer of the proceedings.

13. The correctness or otherwise of any order ultimately passed by the learned Trial Court is a matter which can be assailed in accordance with law, if so permissible, and cannot furnish a ground for seeking

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TR.P.(C.) 144/2026

Page 3 of 5



2026:DHC:6500



transfer merely on the basis of an apprehension arising from an oral observation.

14. Similarly, the allegations regarding indulgence allegedly shown to the counsel appearing for the Respondents and the alleged advice concerning an application for detention are serious allegations against a Judicial Officer. Such allegations ought not to be made in a routine manner or founded merely upon an interpretation placed by a litigant upon the oral exchanges taking place during the course of proceedings.

15. In the considered view of this Court, the power of transfer under Section 24 of the CPC cannot be invoked merely because a litigant has developed an apprehension based upon the oral observations made during the course of proceedings. Therefore, the allegations made against the learned Trial Court are neither warranted nor conducive to the administration of justice.

16. The manner in which such allegations have been incorporated in the present Petition, without any adjudication or determination having been pointed out which would substantiate the apprehension pleaded by the Petitioner, is strongly deprecated.

17. Accordingly, it is observed that the present Petition, having been filed on the basis of an apprehension which is unsupported by any sufficient material, amounts to an abuse of the process of the Court.

18. In view thereof, the present Petition, along with pending application(s), stands dismissed with costs of Rs. 25,000/-, to be deposited by the Petitioner with the Delhi High Court Bar Association within a period of four (04) weeks from today.

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TR.P.(C.) 144/2026

Page 4 of 5



2026:DHC:6500



19. The Petitioner shall place on record the proof of deposit of the aforesaid costs within a period of one (01) week thereafter.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 10, 2026/tk/jk

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TR.P.(C.) 144/2026