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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 14.09.2026*# **CNR No. DLHC010425772026**+ **W.P.(C) 13127/2026 & CM APPL. 61048/2026**

MRS. MARIAM ALI

.....Petitioner

Through: Mr. Bharat Gupta, Ms. Sansriti
Trivedi and Mr. Amit Gupta,
Advts.

versus

GOVT. NCT OF DELHI AND ORS.Respondents

Through: Ms. Nitika Bhutani, Panel
Counsel for GNCTD.
R-7 in person.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J. (Oral)**

1. The present petition has been filed under Article 226 of the Constitution of India seeking grant of following reliefs:

“a) appoint the Petitioner as the permanent guardian of Ms. Rubina Sultan’s person and property, including the assets/properties mentioned in Annexure A;

b) direct Respondent No.7 to hand over to the Petitioner physical custody of Ms. Rubina Sultan and all her original documentation, including her Aadhaar Card, UDID Card and bank and other financial documents;

c) direct Respondent Nos. 1 and 2 to ensure that Respondent No.7 hands over to the Petitioner physical custody of Ms. Rubina Sultan and all her original documentation...”



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2. The case set out by the petitioner is that she and respondent nos. 3 to 7 are the surviving children of late Nawab Sultan Yar Khan. Respondent no. 10, aged about 70 years, is stated to have been disabled since birth. Her disability certificate dated 21.03.2024, issued by respondent no. 8 [*Atal Bihari Vajpayee Institute of Medical Sciences and Dr. Ram Manohar Lohia Hospital*], assesses her as having 50% intellectual disability and 50% locomotor disability, with an overall impairment of 72%. The assessment dated 27.06.2022 records her mental age as that of a child of nine years. It is stated that, after the demise of her eldest brother, Mr. Sikander Yar Khan, in July 2011, who had been appointed as her guardian *ad litem* by order dated 30.01.2003 in Suit No. 2080/2001, respondent no. 7 removed her at night from the ancestral premises at 5182, Ballimaran, Delhi, and took her to his residence at Ghaziabad, where she continues to reside.

3. By way of C.M.A. No. 61048/2026, the petitioner seeks interim custody of respondent no. 10, release of the balance amount of Rs. 2.19 lakhs lying in Post Office Savings Account No. 1085384924, restraint against dealing with her assets and against respondent no. 7 holding himself out as her guardian, correction of her disability certificate, and production of the statements of Bank of India Account No. 601210110008826 for the preceding seven years.

4. At the outset, when the matter was taken up, learned counsel for the respondents raised a preliminary objection regarding the



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territorial jurisdiction of this Court to entertain the present petition.

5. The learned counsel for the petitioner argued that this Court has territorial jurisdiction as the movable and immovable assets of respondent no. 10, which form the subject matter of the present petition, are situated at Ballimaran, Delhi. It was submitted that the permanent address of respondent no. 7, as reflected in her Aadhaar card, is 5182, Ballimaran, Delhi, and that her presence at Ghaziabad as of now is neither voluntary nor lawful, since she was taken there by respondent no. 7 in July 2011 without the permission of any court. It was contended that respondent no. 7 cannot rely upon his own alleged wrong to contend that this Court lacks territorial jurisdiction. It was further submitted that the disability certificate dated 21.03.2024 was issued by respondent no. 8 at New Delhi pursuant to the directions of respondent no. 2 and this Court in CM(M) No. 1552/2019 and Cont. Cas.(C) No. 1103/2019. Respondent nos. 1, 2, 8 and 9 are also situated in Delhi and the reliefs sought against them are enforceable within the territorial jurisdiction of this Court. The learned counsel further contended that various proceedings concerning respondent no. 10, including Suit No. 2080/2001, RC.REV. No. 213/2018 and CM(M) No. 75/2020, have been entertained by this Court and that this Court is, therefore, closely connected with the dispute. It was lastly submitted that the jurisdiction exercised by the Court as *parens patriae* is a constitutional jurisdiction and ought not to be defeated merely because respondent no. 10 is presently residing outside the territorial



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jurisdiction of this Court, particularly when her presence at Ghaziabad, Uttar Pradesh itself is under challenge.

6. *Per contra*, the learned counsel appearing for the respondent argued that respondent no. 10 has been residing at Ghaziabad, Uttar Pradesh, continuously since July 2011, i.e. for more than fifteen years, and that the memo of parties itself records her present address as Ghaziabad. It was contended that the guardianship sought by the petitioner is, in substance, guardianship of the person of respondent no. 10 and that the reliefs sought in this regard, including interim custody, medical care, her removal from the present household and appointment of a caregiver, would operate upon a person who resides beyond the territorial jurisdiction of this Court. It was further submitted that the reliefs relating to her estate are only consequential to the relief of appointment of a guardian and cannot, by themselves, confer territorial jurisdiction upon this Court. The learned counsel further submitted that no order passed by respondent nos. 1, 2, 8 or 9 has been challenged in the present petition and that their presence in Delhi does not give rise to any part of the cause of action. It was also submitted that the location of the assets and the address mentioned in the Aadhaar card are not material for determining territorial jurisdiction, as neither forms an integral part of the cause of action. It was contended that the appropriate forum would be the District Court or the Local Level Committee at Ghaziabad and, insofar as the writ jurisdiction is concerned, the High Court of Judicature at Allahabad, within whose territorial jurisdiction respondent no. 10 has been



residing. It was accordingly submitted that no part of the cause of action has arisen within the territorial jurisdiction of this Court and that, in any event, this Court is not the *forum conveniens*.

7. This Court has **heard** arguments addressed on behalf of the petitioner as well as the respondents, and has perused the case file.

8. The question which arises for consideration is whether, in view of the reliefs sought by the petitioner, including her appointment as guardian of respondent no. 10, her custody and care, and the consequential directions concerning respondent no. 10 and her estate, this Court has the territorial jurisdiction to entertain the present petition.

9. Article 226(1) of the Constitution of India empowers every High Court, within its territorial jurisdiction, to issue appropriate directions, orders or writs to any person or authority, including the Government, for enforcement of fundamental rights and for any other purpose. Article 226(2), on the other hand, permits a High Court to exercise jurisdiction where the cause of action, wholly or in part, arises within its territorial jurisdiction. The expression “cause of action” refers to the bundle of material facts which the petitioner is required to plead and establish in order to obtain the relief claimed. The mere existence of a fact having some connection with the dispute is not sufficient. The fact relied upon must have a nexus with the subject matter of the challenge and must be material, essential or integral to the relief sought. This position has been reiterated by the Hon’ble Supreme Court in *State of Goa v. Summit Online Trade*



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Solutions (P) Ltd.: (2023) 7 SCC 791, as well as in ***Alchemist Ltd. v. State Bank of Sikkim:*** (2007) 11 SCC 335 and ***Oil and Natural Gas Commission v. Utpal Kumar Basu:*** (1994) 4 SCC 711.

10. The nature of the reliefs sought in the present petition has, therefore, to be examined first. The ***principal relief*** sought by the petitioner is her appointment as guardian of respondent no. 10, both in respect of her person and her property. The petitioner further seeks a direction to respondent no. 7 to hand over to her the physical custody of Ms. Rubina Sultan along with all her original documents. The petitioner also seeks a direction to respondent nos. 1 and 2, i.e. GNCTD and the State Commissioner for Persons with Disabilities, Delhi, to ensure that respondent no. 7 hands over physical custody of respondent no. 10 to the petitioner.

11. It is not in dispute that the petitioner herein is not a resident of Delhi, but of Noida, Uttar Pradesh. It is further not in dispute that the petitioner is seeking her appointment as guardian of respondent no. 10, who has been residing at Ghaziabad, Uttar Pradesh, since 2011-12, i.e. for more than fifteen years. The memo of parties itself records her present residence at Ghaziabad. The fact that the petitioner alleges that respondent no. 10 was taken to Ghaziabad by respondent no. 7 in circumstances which, according to her, were unlawful, does not alter the fact that respondent no. 10 has been continuously residing there for all these years. Moreover, respondent no. 7, the brother of the petitioner, against whom the reliefs have been sought, is also a resident of Ghaziabad, Uttar Pradesh.



12. Therefore, neither the party seeking the relief, i.e. the petitioner, nor the party against whom the relief is sought, i.e. respondent no. 7, nor the person in respect of whom the relief is sought, i.e. respondent no. 10, is a resident of Delhi.

13. In the opinion of this Court, grant of the relief of appointment of the petitioner as guardian of the person and property of respondent no. 10, as sought in the present petition, would necessarily require an examination of the circumstances in which respondent no. 10 is presently residing, the nature of care and support being provided to her, her medical condition and requirements, her living arrangements and, to the extent possible, her wishes and preferences. Any enquiry into these matters would necessarily have to be undertaken at the place where respondent no. 10 is presently residing, i.e. Ghaziabad, Uttar Pradesh. For this purpose, if any medical examination or assessment of her disability is required, the same would necessarily have to be undertaken by the appropriate hospital/medical board at Ghaziabad, where respondent no. 10 resides, rather than by the authorities in Delhi.

14. Insofar as the argument of the petitioner that respondent no. 10 originally resided at Ballimaran, Delhi, and that certain movable and immovable assets belonging to her are situated in Delhi is concerned, the same is unmerited. These facts, by themselves, cannot confer territorial jurisdiction upon this Court. This Court is conscious of the fact that the present writ petition is not for determination of title to, or management of, any particular property situated in Delhi. The relief



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in respect of the estate of respondent no. 10 is sought as a consequence of the prayer for appointment of the petitioner as her guardian. The location of the assets, therefore, cannot be treated as an integral part of the cause of action for the principal reliefs sought in the petition, particularly when none of the parties directly concerned with the principal reliefs is situated within the territorial jurisdiction of this Court.

15. The same principle would apply to the reliance placed upon the disability certificate dated 21.03.2024 issued by respondent no. 8. The petitioner has, *inter alia*, in CM APPL 61048/2026, sought correction of the said certificate on the ground that the assessment recorded therein is incorrect. However, the issuance of the said certificate in Delhi is, at best, an antecedent fact. No independent challenge has been laid to any order passed by respondent no. 8 which constitutes the principal subject matter of the present petition. In fact, no substantive relief against respondent no. 8 has been sought in the main writ petition. *More importantly*, any fresh medical assessment, if required, for determining the present condition and extent of disability of respondent no. 10 would necessarily have to be carried out at the place where she resides. The mere fact that an earlier disability certificate was issued in Delhi cannot, therefore, make Delhi the appropriate forum for adjudication of the prayers sought by the petitioner.

16. The petitioner has also relied upon the presence of respondent nos. 1, 2, 8 and 9 in Delhi. However, mere impleadment of



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authorities situated within the territorial jurisdiction of this Court cannot confer jurisdiction where the substantive dispute does not arise from any action or order of such authorities. Territorial jurisdiction has to be determined with reference to the cause of action and not merely the *situs* of one or more of the respondents. The Hon'ble Supreme Court has repeatedly held that facts having no material or integral connection with the *lis* cannot be relied upon to confer territorial jurisdiction.

17. The reliance placed upon the fact that certain earlier proceedings concerning respondent no. 10 were entertained by this Court is also of no assistance to the petitioner. Territorial jurisdiction has to be determined with reference to the cause of action arising in the proceedings before the Court. The fact that an earlier proceeding concerning the same person was entertained by this Court cannot, by itself, confer jurisdiction in a subsequent proceeding where the nature of the relief and the material facts giving rise to the cause of action are different.

18. In ***Kusum Ingots & Alloys Ltd. v. Union of India***: (2004) 6 SCC 254, the Hon'ble Supreme Court examined the scope of territorial jurisdiction under Article 226(2) of the Constitution of India and held that the mere location of the seat of the Union Government or the authority concerned does not, by itself, confer territorial jurisdiction upon a High Court. It was observed that jurisdiction under Article 226 is determined by whether any part of the cause of action has arisen within the territorial limits of the High



Court concerned. Further, the concept of *forum conveniens* was explained by the Hon'ble Supreme Court in the said decision by way of following observations:

“Forum conveniens

30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of *forum conveniens*.”

19. Furthermore, the Full Bench of this Court in ***Sterling Agro Industries Ltd. v. Union of India***: 2011 SCC OnLine Del 3162, has held that even where a part of the cause of action arises within the territorial jurisdiction of a High Court, the Court is required to consider the doctrine of *forum conveniens*. The mere existence of a part of the cause of action within the jurisdiction of a High Court does not, by itself, compel the Court to entertain the petition. The Court is required to consider which forum is more appropriate having regard to the nature of the *lis*, the convenience of the parties, the examination of facts and other circumstances necessary for an effective adjudication.

20. The present case is one where the petitioner, respondent no. 7 and respondent no. 10 are all residing in Uttar Pradesh. The principal relief concerns the person, custody, care and welfare of respondent no. 10. The factual enquiry concerning her present living conditions would necessarily have to be undertaken at Ghaziabad; any medical assessment or examination, if required, would have to be conducted



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by the appropriate medical authorities there; and any order concerning her custody or care would necessarily have to be implemented at Ghaziabad. The authorities and the forum having jurisdiction over Ghaziabad would, therefore, be the appropriate forum to undertake the necessary factual enquiry and to ensure effective implementation of any order that may ultimately be passed.

21. This Court is, therefore, of the considered view that the principal and material facts relevant for adjudication of the reliefs sought by the petitioner pertain to the residence, custody, care, medical condition and welfare of respondent no. 10, all of which are connected with Ghaziabad, Uttar Pradesh. The facts relied upon by the petitioner to establish a connection with Delhi do not constitute an integral part of the cause of action for the principal reliefs sought in the present petition. Even assuming that some connection with Delhi can be demonstrated, this Court would decline to exercise its discretionary jurisdiction under Article 226 of the Constitution of India, as the competent court or authority having territorial jurisdiction over Ghaziabad would be the appropriate forum for adjudication of the present dispute.

22. Accordingly, the present petition is dismissed on the ground of territorial jurisdiction. The pending applications, including C.M.A. No. 61048/2026, also stands disposed of.

23. It is clarified that this Court has not expressed any opinion on the merits of the allegations or on the entitlement of the petitioner to be appointed as guardian, and the petitioner shall be at liberty to avail



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of such remedies as may be available to her before the competent court or authority having jurisdiction over Ghaziabad, in accordance with law.

24. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
SEPTEMBER 14, 2026/zp