

23.02.2026

**Proceedings are being conducted in hybrid mode.**

Present: Dr. Aman Hingrani, Ld. Sr. Adv. for plaintiff (through VC).

Defendant is already exparte vide order dt. 29.8.2024.

Vide a separate judgment of even date, announced in open court, suit of the plaintiff has been decreed on the following terms: -

(a) A decree of declaration to the effect that the plaintiff is not bound by judgments/orders passed by the Family Court at Australia in File No. MLC6473/2021 titled as "Aesha Dhawan (nee Mukherji) vs. Shikhar Dhawan", including the judgments/ orders dated 02.02.2024, 05.12.2023, 10.8.2021 & 09.09.2021 pertaining to "Property Settlement" is passed in favour of the plaintiff and against the defendant;

(b) A decree for declaration to the effect that all documents executed by the plaintiff which culminated in the Financial Agreement, are null and void and are not binding on the plaintiff as the same were executed by the plaintiff under threats, extortion, trickery and fraudulent action exercised by the defendant upon the plaintiff, is passed in favour of the plaintiff and against the defendant;

(c) A decree for directing the defendant to return to the plaintiff the sale proceeds of property 10 Pagebrook Road, Berwick, Australia totaling to AU \$ 812,397/50 (AU \$ 150,000 and AU \$ 662,397/50) received by her as "Interim Property Settlement" and to return to the plaintiff amount of AU \$ 82,000 as part sale proceeds of the property 6 Forest Drive, Clyde North, Australia forcibly retained by her, is passed in favour of the plaintiff and against the defendant;

(d) The defendant is further directed to pay interest @ 9% per annum on the amount mentioned in para (c) above from the date of filing of the present suit till final realization.

(e) A decree for injunction restraining the defendant from enforcing the anti-suit injunction order dated 10.8.2021 and from enforcing the judgment/order dated 02.02.2024, passed by Ld. Family Court in Australia in File No.MLC6473/ 2021 titled "Aesha Dhawan (nee Mukherji) v. Shikha Dhawan" against the plaintiff, is passed in favour of the plaintiff and against the defendant.

Suit of the plaintiff is decreed accordingly with no order as to the cost.

Decree sheet be prepared accordingly.

**File be consigned to Record Room after necessary compliance.**

**(Devender Kumar Garg)**  
**Judge, Family Court, PHC**  
**New Delhi/23.02.2026**

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Family Courts, New Delhi District  
पटियाला हाउस, दिल्ली  
Patiala House, Delhi

23/2/26

IN THE COURT OF SH. DEVENDER KUMAR GARG, JUDGE  
FAMILY COURT, PATIALA HOUSE COURTS COMPLEX,  
NEW DELHI, INDIA.

CS No. 5/2023

IN THE MATTER OF:-

**Shikhar Dhawan**

S/o Mr. Mohinder Paul,  
R/o M-1121, DLF Magnolia,  
DLF Phase 5, Golf Course Road,  
Chakarpur, Sector-42, Gurgaon-  
122002, Haryana.  
dhawan.shikhar@ymail.com

..... Plaintiff

VERSUS

**Aesha Dhawan**

W/o Mr. Shikhar Dhawan,  
R/o 34, North Hidden Valley Circuit,  
Beaconsfield VIC 3807,  
State of Victoria, Australia.  
aesha.dhawan@ymail.com  
apwithaesha@yahoo.com

..... Defendant

Date of Institution : 28.03.2023  
Date of Conclusion of Argument : 10.12.2025  
Date of Judgment : 23.02.2026

**SUIT FOR DECLARATION, ORDER FOR RETURN  
OF SALE PROCEEDS AND INJUNCTION**

Appearance:

*Dr. Aman Hingorani, Ld. Sr. Adv. alongwith Ms. Yukta Chauhan, Ld.  
Counsel for plaintiff.*

*Defendant is already exparte vide order dated 29.8.2024.*

## EX-PARTE JUDGEMENT

1. This judgement shall dispose of the suit filed by the plaintiff against the defendant for declaration, order for return of sale proceeds and injunction.
2. Briefly stated, facts of the case of the plaintiff as stated in the plaint are that the marriage between the parties was solemnized according to Sikh rites on 30.10.2012 at Gurudwara, Nelson Mandela Marg, Vasant Kunj, New Delhi and the marriage is duly registered before Registrar of Marriage, West District, Govt. of NCT of Delhi under Hindu Marriage Act, 1955. At the time of their marriage, the plaintiff was bachelor, however, the defendant was a divorcee. The first marriage of the defendant with Jason Gurudyal Singh was terminated vide order dated 5.8.2012 passed by Federal Magistrates Court of Australia vide File no. (P) DGC1027/2012.
  - 2.1. It is further averred that the defendant had two daughters from her previous husband. Out of wedlock of the parties, one male child Zoraver Dhawan was born on 26.12.2013 at Melbourne, Australia and the minor son, though an Australian citizen, is Hindu and presently, he is in custody of the defendant. The parties have ceased to have cohabit as husband and wife since 3.8.2020 and are living separately since then. Since the marriage of the parties was performed according to Sikh rites and ceremonies and registered under Hindu Marriage Act, 1955, it is the Hindu Marriage Act, 1955, which would govern all disputes between them pertaining to their marriage, disposal of properties and maintenance.

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- 2.2. It is further averred that before marriage of parties, defendant assured the plaintiff that due to his career requiring him to live in India she would live in India with him, but she later told that due to her supposed commitment to her previous husband not to reside outside Australia with her minor daughters, she would be residing there, however, the defendant has not shown the plaintiff any proof of any such commitment. The plaintiff has suffered a long distance marriage and immense agony and anguish of living separately from his own son for years.
- 2.3. It is further averred that the plaintiff is an international sportsperson and has been playing for Indian cricket team for last 10 years and for the Indian Premier League for last 15 days. Shortly after the marriage, defendant threatened to fabricate defamatory and false material against the plaintiff and circulate the same to destroy his reputation and cricket career if he did not comply with her demands for money.
- 2.4. It is further averred that on or around 12.11.2013, the plaintiff purchased a property (initially in the name of defendant's cousin Neil) at 6, Forest Drive, Clyde North, Australia (Clyde North property) between AU \$ 850,000 – \$ 900,000 and this was purchased from his earnings and savings and loan from ANZ Bank. The defendant compelled the plaintiff to put this property in their joint names under the threat of fabricating and circulating defamatory and false material against him. This property was sold on 18.8.2019 for a sum of AU \$ 935,000 and defendant by issuing threats retained AU \$ 82,000 from the sale proceeds and she had admitted this fact in her affidavit filed in Australian Court.

- 2.5. It is further averred that the plaintiff used the remaining sale proceeds from Clyde North property alongwith his earnings and a loan from Bendigo Bank to purchase property located at 34, North Hidden Valley Circuit, Beaconsfield VC 3807, Australia (Beaconsfield property) for a sum of AU \$ 1,150,000 with an additional AU \$ 70,000 in purchase costs. Though all property expenses were met by plaintiff including repayments towards mortgage. He was compelled to purchase this property also in joint names under the defendant's threat of fabricating and circulating defamatory and false material against him as aforesaid. The defendant, minor son and the defendant's two daughters are residing in this property.
- 2.6. It is further averred that in or around 27.9.2017, the plaintiff purchased vacant land located at 10, Pagebrook Road, Berwick, Australia (Berwick property) for AU \$ 2,470,000 and there was an additional AU \$ 180,000 in purchase costs. The plaintiff put AU \$ 1,000,000 from his earnings and savings and took a loan from ANZ Bank for which, both the parties became joint borrowers, although, the plaintiff contributed all funds towards the said property, the mortgage and expenses. The plaintiff was compelled to purchase this property in defendant's name as 99% owner under her threat of fabricating and circulating defamatory and false material.
- 2.7. It is further averred that the defendant with a view to pressurize the plaintiff to give in to her demands, sent defamatory and false WhatsApp messages to his banker Mr. Rajeev Duggal on 6.12.2020 and 10.12.2020 to the effect that she has been tortured for years by being deprived of money for herself and the three children and has been forced to borrow money from

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even her daughter's boyfriend. The defendant even sent screenshots of these messages to the Indian national team coach Mr. B. Arun who was on tour to Australia with the plaintiff. She also sent these texts to Mr. Dhiraj Malhotra, CEO of Delhi Capitals and to several Indian cricketers with a view to tarnish the reputation of plaintiff and make him an object of ridicule. This was despite the fact that the plaintiff was giving the defendant substantial amount of about AU \$ 17,500 per month (inclusive of mortgage payments) with additional payments for school fees, school uniform etc. and despite defendant keeping AU \$ 82,000/- from the sale proceeds of Clyde North Property. The defendant threatened the plaintiff that she would fabricate and circulate even more defamatory and false texts that would destroy his reputation and cricketing career.

2.8. It is further averred that the plaintiff had a draft MOU drawn up in terms of which they were to take divorce by mutual consent in terms of section 13B of Hindu Marriage Act and he received letter dated 11.5.2021 from the defendant's lawyer which rejected the draft MOU and gave a counter offer, in response to which there was further correspondences, which though on record, has ceased to become relevant in view of the defendant subsequently confining her claim in her case i.e. File No. MLC6473/2021 before Family Court of Australia to "Property Settlement". Though termed as "Property Settlement", these are findings of the Australian Court on disposal of property, where all the assets of the parties (including those in India) would be put in a marital pool for the Australian Court to allocate to the parties to the marriage. In the process, the

Australian Court could alter the existing title or interests of a party in the property.

2.9. It is further averred that during these non-materialized talks for divorce by mutual consent, the plaintiff's counsel suddenly received by email the letter dated 17.6.2021 from defendant's lawyer serving then an Initiating Application filed on 11.6.2021 by defendant vide File No. MLC6473/2021 before Australian Court alongwith affidavit dated 10.6.2021 and financial statement dated 10.6.2021. In the said Initiating Application, the defendant inter-alia claimed the net sale proceeds of the Berwick Property and in affidavit dated 10.6.2021, defendant annexed as AD-2 the copy of aforesaid WhatsApp messages sent to Mr. Rajeev Duggal on 6.12.2020 and 10.12.2020 and admitted that she had forwarded the screenshots of the same to the Indian National Coach which was on tour with me. In the subsequent affidavit dated 19.8.2021, the defendant also admitted that she had retained AU \$ 82,000 from the sale proceeds of Clyde North property. The defendant eventually amended her Initiating Application to confine her claim to "Property Settlement".

2.10. It is further averred that in backdrop of the case file No. MLC6473/2021 filed by the defendant during the negotiations between the parties, he was compelled under pressure of the defendant that she would fabricate and circulate defamatory and false texts and would destroy his reputation and cricket career, to eventually agree to give her a sum of AU \$ 150,000 from the net sale proceeds of the Berwick property. The Australian Court passed order dated 10.8.2021 in File No. MLC6473/2021 in terms of which the plaintiff was to give the

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defendant AU \$ 150,000 from the sale proceeds of the Berwick property by way of interim property settlement, and the balance of sale proceeds, after meeting mortgage and other expenses, was to be placed in the trust account of the defendant's lawyer in terms set out in the said order.

- 2.11. It is further averred that the consent of the plaintiff to such terms or to even appear/participate before the Australian Court was vitiated by reason of his being put under duress and threatened by the defendant that she would fabricate and circulate defamatory and false texts that would destroy his reputation and cricketing career. The plaintiff filed his affidavit dated 20.2.2022 before the Australian Court in File No. MLC-6473/2021 inter alia stating that he does not submit to the jurisdiction of the Australian Court and that even with regard to property and maintenance, he had appeared and given consent to some orders before the Australian Court under threat and extortion by the defendant as detailed in his divorce petition i.e. HMA No.110/2023 and his such appearance and consent stood vitiated for that reason.
- 2.12. It is further averred that on 11.8.2021, the Berwick property was sold for AU \$ 2,430,000. The sum of AU \$ 150,000 was given to the defendant and a sum of AU \$ 692,397/50 was deposited in trust account of the defendant's lawyer after meeting the expenses as aforesaid. The Australian Court passed order dated 9.9.2021 in File No. MLC6473/2021 wherein it was further directed that sum of \$ 692,397/50 (being the net sale proceeds of the Berwick property) be released to defendant by way of interim property settlement. It is clear from order

dated 9.9.2021 that the plaintiff did not consent to any such interim property settlement.

2.13. It is further averred that Australian Court passed order dated 9.9.2021 in File No.(P) MLC6473/2021 wherein it was indicated that the plaintiff had consented to pay the mortgage and outgoing for the Beaconsfield property, school fees of the minor son and for his school uniforms and books and other school related expenses. The Order went further to direct that the sum of AU \$ 662,397/50 (being the net sale proceeds of the Berwick property) be released to the defendant by way of interim property settlement. The Australian Court directed the plaintiff to pay interim spousal maintenance of AU \$ 8,750 per month to defendant and AU \$ 2037 towards child maintenance.

2.14. It is further averred that the defendant managed to pocket the net sale proceeds of the Berwick property as “Interim Property Settlement” – a concept which is contrary to and repugnant with the Indian law which is applicable to the parties and the defendant is, thus, liable to return to the plaintiff the sale proceeds (AU \$ 150,000 and AU \$ 662,397/50) received by her as “Interim Property Settlement”, in addition to such sale proceeds of the Clyde North property (AU \$ 82,000) as forcibly retained by her.

2.15. It is further averred that since the “Property Settlement” concept which is inextricably linked to maintenance under the (Australian) Family Law Act, 1975, is contrary to and repugnant with the applicable Indian law, the continuation of property settlement and maintenance proceedings before Australian Court is oppressive to the plaintiff and is vexatious and will result in serious miscarriage of justice. In the light of

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case law and admitted facts, the plaintiff is entitled to an anti-enforcement injunction restraining defendant from enforcing the anti-suit injunction granted by the Australian Court vide order dated 10.8.2021.

2.16. It is further averred that the marriage of parties was solemnized according to Sikh rites and ceremonies and registered under the Hindu Marriage Act, 1955 and it is the Hindu Marriage Act, 1955 which would govern all their disputes pertaining to the marriage including disposal of properties. The Hindu Marriage Act, 1955 does not recognize the Australian Court as a court of competent jurisdiction to entertain matrimonial dispute of the parties. The orders/judgments passed by the Australian Court in File No. MLC6473/2021 are not on a ground available under the Hindu Marriage Act. The plaintiff is, therefore, entitled to an order declaring that he is not bound by the orders dated 10.8.2012 and 9.9.2021 passed by the Australian Court in File No. MLC6473/2021 pertaining to "Property Settlement". The plaintiff is also entitled to an order directing the defendant to return to him the sale proceeds of Berwick property (AU \$ 150,000 and AU \$ 662,397/50) received by her as "Interim Property Settlement" in addition to such sale proceeds of the Clyde North Property (AU \$ 82,000) as forcibly retained by the defendant alongwith interest @ 18% per annum thereupon from the date of receipt of the said sums till the date of payment.

2.17. It is further averred that the plaintiff's international stature and reputation and his cricketing career was at stake, so, he was coerced into executing documents including the Financial Agreement, the non-binding parental plan and binding child

support agreement (together referred to as the Australian Settlement documents) alongwith Indian Divorce documents to be signed contemporaneously by the defendant, which she did not so. The defendant thus, fraudulently tricked the plaintiff into signing the Australian Settlement documents including the Financial Agreement, while breaching its essential terms by not signing the divorce petition contemporaneously and as a result, the proposed settlement also did not materialize.

2.18. It is further averred that the plaintiff is entitled to an order declaring that all documents executed by him under threats, extortion, trickery and fraudulent action by the defendant which culminated in the Financial Agreement are null and void and not binding on him. The Australian Court passed the judgment and order dated 5.12.2023 in File No. MLC6473/2021 which was served upon him by the Australian Court vide email dated 5.12.2023. The Australian Court vide judgment and order dated 5.12.2023, inter-alia set aside the Financial Agreement dated 29.8.2022 and directed the defendant to file an Amended Initiating application setting out with particularity the order she seeks pursuant to Sec. 79 of (Australian) Family Laws Act, 1975. The Australian Court further held that “the orders made on 9 September 2021 in relation to support of the child were made without power, and are therefore enforceable. The plaintiff did not appear before the Australian Court as he did not submit to the jurisdiction of the Australian Court.

2.19. It is further averred that the Australian Court passed judgment and order dated 2.2.2024 in File No. MLC-6473/2021 which was served upon the plaintiff by Australian Court vide email dated 2.12.2024. In the above said judgment and order dated

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2.2.2024, it was recorded that the defendant filed her Amended Initiating Application on 11.1.2024 wherein she “seeks orders in relation to property only” and also recorded that pursuant to orders made on 9.9.2021, defendant received ‘a part property payment of AU \$ 662,397.50 from the proceeds of sale of a property in Berwick’ and held that it would be ‘appropriate to notionally addback that part property payment’ as defendant had not included that in the pool of assets.

2.20. It is further averred that in judgment and order dated 2.2.2024, Australian Court inter-alia made a division of assets calculated on the global pool (including properties of plaintiff in India) with the defendant getting a further 15% in relation to the tangible pool and hence, in addition to assets that the defendant is to retain which totals to \$ 1,176,760, the plaintiff is to pay her a further sum of \$ 2,514,806 and directed the plaintiff to pay the said amount so compound in terms of Section 79(4) of (Australian) Family Law Act, 1975 and further directed the plaintiff to transfer all of his right, title and interest in favour of defendant in immovable property situated at 34, North Hidden Valley Circuit, Beaconsfield, Victoria and made provisions in case of non-compliance.

2.21. It is further averred that as per the judgment and order dated 2.2.2024 of Australian Court, the marital/asset pool on the basis of which Australian Court computed the said sum \$ 2,514,806 includes movable immovable properties of the plaintiff in India and same includes plaintiff’s immovable property at A-1/26, FF Janakpuri, New Delhi; C-72, Brisk Lumbini Sector 109, Gurgaon; Plot No.A101, Sun City, Rohtak II, Phase I, Rohtak, Haryana and; Plot No.9, Backside Tilak Nagar Industrial Area,

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New Delhi-110018 and same also includes his bank accounts in Union Bank of India, HDFC Bank, Karur Vysysa Bank Ltd., Fixed Deposits, Mutual Funds, business and cards – all in India.

2.22. It is further averred that any sum of money computed by the Australian Court to be paid by the plaintiff to the defendant which is premised on such Australian concept of ‘Property Settlement’ under the (Australian) Family Laws Act, 1975 would be contrary to and repugnant with provisions of Hindu Marriage Act, 1955 and with Indian law. Indeed, the orders / judgments passed by the Australian Court in file No.MLC6473/2021 are in defiance and breach of Indian Law and hence, are not conclusive nor are they enforceable in India or binding upon the plaintiff. This is regardless of whether the plaintiff had or had not voluntarily and unconditionally submitted to the jurisdiction of the Australian Court. It is further averred that the plaintiff has not voluntarily or effectively submitted to the jurisdiction of the Australian Court nor consented to the grant of relief inconsistent with the provisions of the Indian Law. In fact, defendant practiced fraud to obtain the orders/judgments from the Australian Court.

2.23. It is further averred that the plaintiff is entitled to an order declaring that he is not bound by judgments/orders passed by Australian Court in File No. MLC 6473/2021 pertaining to the “Property Settlement” including the judgments/orders dated 2.2.2024 and 5.12.2023 and is entitled to injunction restraining defendant from enforcing the judgment/order dt. 2.2.2024 of Australian Court in File No. MLC6473/2021 against plaintiff whether in India or in Australia. It is prayed accordingly.

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23/2/24

3. Summons of the suit were issued to the defendant, but despite service, the defendant chose not to appear in the present matter and accordingly, the defendant was proceeded ex parte vide order dated 29.08.2024.
4. In order to prove his case, the plaintiff has examined only one witness i.e. himself as PW-1 and he has relied upon following documents: -
- (1) Judgment dated 4.10.2023 passed in HMA No. 110/2023 as Ex.PW1/1,
  - (2) Printout of email dated 1.3.2023 sent to defendant by I.O. of P.S. Cyber Crime, East Gurgraon as Ex.PW1/2,
  - (3) Printout of affidavit dated 10.06.2021 of the defendant in File No MLC6473/2021 as Ex.PW1/3,
  - (4) Printout of Affidavit dated 19.08.2021 of the defendant in File No MLC6473/2021 as Ex.PW1/4,
  - (5) Printout of Order dated 10.08.2021 passed by Australian Court in File No MLC6473/2021 as Ex.PW1/5,
  - (6) Printout of affidavit of plaintiff sworn on 17.02.2022 and filed on 20.02.2022 before the Australian Court in File No.MLC6473/2021 as Ex.PW1/6 (inadvertently stated as being dated 20.02.2022 in evidence by way of affidavit),
  - (7) Printout of order dated 09.09.2021 passed by Australian Court in File No MLC6473/2021 as Ex.PW1/7,
  - (8) Printout of the email dated 05.12.2023 of the Australian Court received by the plaintiff as Ex.PW1/8,
  - (9) Printout of the Judgement and Order dated 05.12.2023 passed by Australian Court in File No MLC6473/2021 as Ex.PW1/9,
  - (10) Printout of the email dated 02.02.2024 of the Australian Court received by the plaintiff as Ex.PW1/10,
  - (11) Printout of the Judgement and Order dated 02.02.2024 passed by Australian Court in File No MLC6473/2021 as Ex.PW1/11,

- (12) Printout of the email dated 05.02.2024 from the Counsel of the Defendant as Ex.PW1/12,
  - (13) Printout of the letter dated 05.02.2024 from the Counsel of the Defendant as Ex.PW1/13,
  - (14) Affidavit of plaintiff dt. 27.03.2023 by way of Certificate in terms of Sec. 65B of the Evidence Act as Ex.PW1/14,
  - (15) Affidavit of plaintiff dt.18.01.2024 by way of Certificate in terms of Sec. 65B of the Evidence Act as Ex.PW1/15,
  - (16) Affidavit of plaintiff dt. 10.02.2024 by way of Certificate in terms of Sec. 65B of the Evidence Act as Ex.PW1/16,
5. The pleadings and testimony of PW-1/plaintiff both remained unchallenged. The plaintiff, thereafter, closed his evidence.
  6. I have already heard arguments from Dr. Aman Hingorani, Ld. Senior Advocate for petitioner and have perused the entire material available on record carefully.
  7. Perusal of order dated 11.02.2026 would show that statement of Ld. Counsel for plaintiff was recorded wherein, it has been stated that the plaintiff does not wish to press his relief for declaration with respect to document i.e. 'Financial Agreement' and in respect of 'Non Binding Parental Plan'.
  8. Ld. Counsel for plaintiff had contended that the marriage of plaintiff and defendant was solemnized in Delhi according to Sikh rites and ceremonies and hence, Hindu Marriage Act is applicable to govern all disputes between the parties pertaining to their marriage including property. He further contended that the Australian Court did not have jurisdiction to entertain the matrimonial dispute between the parties including disposal of the property. He has relied upon judgments titled as "Frances

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Ann Clauson and Derek George Clauson” by Family Court of Australia, (1995) FamCA 10; “Anast, R. and Anastopoulos, E.N.” by Family Court of Australia, (1982) FLC 91-201; “Patrikos, M. and Patrikos, S.” by Family Court of Australia, (1980) FLC 90-897; “Sheenam Raheja vs. Amit Wadhwa” by High Court of Delhi, (2012) ILR 6 Delhi 353; “Harmeeta Singh vs. Rajat Taneja” by High Court of Delhi”, 2003 (67) DRJ 58; “Interdigital Technology Corporation and Ors. vs. Xiaomi Corporation and Ors.” by High Court of Delhi, 2021 SCC Online Del 2324; “Y. Narasimha Rao vs. Y. Venkata Lakshmi”, (1991) 3 SCC 451 and; “Prachi Narayan vs. Lalit Narayan”, 2014 SCC Online Del 6665.

9. In judgments titled as **“Y. Narasimha Rao vs. Y. Venkata Lakshmi” (Supra)**, the Hon’ble Supreme Court has made the following observations:

*14. We believe that the relevant provisions of Section 13 of the Code are capable of being interpreted to secure the required certainty in the sphere of this branch of law in conformity with public policy, justice, equity and good conscience, and the rules so evolved will protect the sanctity of the institution of marriage and the unity of family which are the corner stones of our societal life.*

*15. Clause (a) of Section 13 states that a foreign judgment shall not be recognised if it has not been pronounced by a court of competent jurisdiction. We are of the view that this clause should be interpreted to mean that only that court will be a court of competent jurisdiction which the Act or the law under which the parties are married recognises as a court of competent jurisdiction to entertain the matrimonial dispute. Any other court should be held to be a court without jurisdiction unless both parties voluntarily and unconditionally subject themselves to the jurisdiction of that court. The expression “competent court” in Section 41 of the Indian Evidence Act has also to be construed likewise.*

*16. Clause (b) of Section 13 states that if a foreign has not been given on the merits of the case, the courts in this*

country will not recognise such judgment. This clause should be interpreted to mean (a) that the decision of the foreign court should be on a ground available under the law under which the parties are married, and (b) that the decision should be a result of the contest between the parties. The latter requirement is fulfilled only when the respondent is duly served and voluntarily and unconditionally submits himself/herself to the jurisdiction of the court and contests the claim, or agrees to the passing of the decree with or without appearance. A mere filing of the reply to the claim under protest and without submitting to the jurisdiction of the court, or an appearance in the Court either in person or through a representative for objecting to the jurisdiction of the Court, should not be considered as a decision on the merits of the case. In this respect the general rules of the acquiescence to the jurisdiction of the Court which may be valid in other matters and areas should be ignored and deemed inappropriate.

17. The second part of clause (c) of Section 13 states that where the judgment is founded on a refusal to recognise the law of this country in cases in which such law is applicable, the judgment will not be recognised by the courts in this country. The marriages which take place in this country can only be under either the customary or the statutory law in force in this country. Hence, the only law that can be applicable to the matrimonial disputes is the one under which the parties are married, and no other law. When, therefore, a foreign judgment is founded on a jurisdiction or on ground not recognised by such law, it is a judgment which is in defiance of the Law. Hence, it is not conclusive of the matters adjudicated therein and therefore, unenforceable in this country. For the same reason, such a judgment will also be unenforceable under clause (f) of Section 13, since such a judgment would obviously be in breach of the matrimonial law in force in this country.

19. The provision of clause (e) of Section 13 which requires that the courts in this country will not recognise a foreign judgment if it has been obtained by fraud, is self-evident. However, in view of the decision of this Court in *Smt. Satya v. Teja Singh*, (supra) it must be understood that the fraud need not be only in relation to the merits of the matter but may also be in relation to jurisdictional facts.

20. From the aforesaid discussion the following rule can be deduced for recognising foreign matrimonial judgment in this country. The jurisdiction assumed by the foreign court as well as the grounds on which the relief is granted must be in accordance with the matrimonial law under which the parties are married. The exceptions to this rule may be as follows: (i) where the matrimonial action is filed in the

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*forum where the respondent is domiciled or habitually and permanently resides and the relief is granted on a ground available in the matrimonial law under which the parties are married; (ii) where the respondent voluntarily and effectively submits to the jurisdiction of the forum as discussed above and contests the claim which is based on a ground available under the matrimonial law under which the parties are married; (iii) where the respondent consents to the grant of the relief although the jurisdiction of the forum is not in accordance with the provisions of the matrimonial law of the parties.*

10. Thus, it transpires that only that Court will be the Court of competent jurisdiction which Act / Law under which the parties are married recognizes as a Court of competent jurisdiction to entertain the matrimonial dispute. Any other Court will be held to be a Court without jurisdiction unless both the parties voluntarily and unconditionally subject themselves to the jurisdiction of that Court. The decision of the foreign Court should be on a ground under the law under which the parties are married and the decision should be a result of the contest between the parties. The latter requirement is fulfilled only when the respondent is duly served and voluntarily and unconditionally submits himself/herself to the jurisdiction of the court and contests the claim, or agrees to the passing of the decree with or without appearance. It was further observed that a mere filing of the reply to the claim under protest and without submitting to the jurisdiction of the court, or an appearance in the Court either in person or through a representative for objecting to the jurisdiction of the Court, should not be considered as a decision on the merits of the case. It was further observed that the general rules of acquiescence to the jurisdiction of the Court which may be valid in other matters and areas should be ignored and deemed inappropriate. It was

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further observed that where the judgment is founded on a refusal to recognise the law of this country in cases in which such law is applicable, the judgment will not be recognised by the courts in this country. The marriages which take place in this country can only be under either the customary or the statutory law in force in this country. Hence, the only law that can be applicable to the matrimonial disputes is the one under which the parties are married, and no other law. When, therefore, a foreign judgment is founded on a jurisdiction or on ground not recognised by such law, it is a judgment which is in defiance of the Law. Hence, it is not conclusive of the matters adjudicated therein and therefore, unenforceable in this country. The jurisdiction assumed by the foreign court as well as the grounds on which the relief is granted must be in accordance with the matrimonial law under which the parties are married.

11. In judgment titled as "*Harmeeta Singh vs. Rajat Taneja*" (*Supra*), the Hon'ble High Court of Delhi has held that where the marriage of the parties was performed according to Sikh rites and ceremonies, it is the Hindu Marriage Act, which would govern all disputes between them pertaining to their marriage including property.

12. Now the present matter is to be seen. In the present matter, it is not disputed that the marriage between the plaintiff and the defendant has been solemnized according to Sikh rites and rituals in Delhi and hence, this Court has got jurisdiction to decide the matrimonial dispute between the parties including their property.

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13. The plaintiff has challenged some of the orders passed by the Australian Court with respect to distribution of properties of the parties and hence, now the question arises as to whether the Australian Court had got jurisdiction to decide the matrimonial dispute including the property dispute between the parties.
14. In judgment titled as "*Y. Narasimha Rao vs. Y. Venkata Lakshmi*" (*Supra*), the Hon'ble Supreme Court has held that for recognising a foreign matrimonial judgment in this country, the jurisdiction assumed by a foreign court as well as the ground on which the relief is granted, must be in accordance with the matrimonial law under which the parties are married. The exceptions to this Rule have been mentioned as follows:
- (a) Where the matrimonial action is filed in the forum where the respondent is domiciled or habitually and permanently resides and the relief is granted on a ground available in the matrimonial law under which the parties are married;
- (b) Where the respondent voluntarily and effectively submits to the jurisdiction of the forum as discussed above and contests the claim which is based on a ground available under the matrimonial law under which the parties are married;
- (c) Where the respondent consents to the grant of the relief although the jurisdiction of the forum is not in accordance with the provisions of the matrimonial law of the parties.
15. Perusal of the orders passed by Australian Court would show wherein there is reference of "Property Settlement", however, these are adjudicatory findings by the Australian Court

regarding the disposal of property of the spouse. Under the (Australian) Family Law Act, 1975, all the assets of the parties (including those in India) would be put in a marital pool for the Australian Court to allocate to the parties to the marriage. In the process, the Australian Court could alter the existing title or interests of a party in the property or transfer. Section 78 of the (Australian) Family Law Act, 1975 reads as under: -

*“78. Declaration of interests in property*

*(1) In proceedings between the parties to a marriage with respect to existing title or rights in respect of property, the court may declare the title or rights, if any, that a party has in respect of the property.*

*(2) Where a court makes a declaration under subsection (1), it may make consequential orders to give effect to the declaration, including orders as to sale or partition and interim or permanent orders as to possession.”*

16. Section 79 of the (Australian) Family Law Act, 1975 inter alia provides that in property settlement proceedings, the Court may make such order as it considers appropriate. Such order could alter the interest of the parties to the marriage in the property. Thus, (Australian) Family Law Act, 1975 pertaining to property settlement are contrary to and repugnant not only with the public policy of India but with the provisions of the Hindu Marriage Act also. The same are also not consistent with Indian Law as contained in the Registration Act, Transfer of Property Act and other statutes.

17. According to the factual matrix of this case, the present matter does not come within the jurisdiction of Australian Court in view of observations in para 20 of judgment titled as **“Y. Narasimha Rao vs. Y. Venkata Lakshmi” (Supra)**. It is matter of record that the marriage of the plaintiff and defendant was

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solemnized as per Sikh rites and customs in Delhi and further plaintiff is domicile in India and habitually and permanently resides in India. The defendant resides at 34, North Hidden Valley Circuit, Beaconsfield VIC 3807, State of Victoria, Australia. When the petition filed by the defendant herein was filed before Australian Court, the same has not been decided according to the ground available in matrimonial law under which the parties are married because as already discussed that the Rule or Policy for disposal of the property of the parties is quite contrary and repugnant to the policy or law in India.

18. Further, it is not the case of the plaintiff that he had voluntarily subjected himself to the jurisdiction of the Australian Court as the plaintiff has relied upon affidavit Ex.PW1/6 wherein the plaintiff has stated before the Australian Court that he does not submit himself to the jurisdiction of the Australian Court. The said stand/averment of the plaintiff has remained unrebutted and unchallenged as the defendant did not contest the present matter and she has remained exparte. Further, it is the case of the plaintiff that when he executed the Property Settlement and attended the proceedings at Court before Australian Court, he was under threat or fear created by the defendant herein that she would circulate some defamatory material to the media that may harm the reputation of the plaintiff being an International cricket player representing India. Thus, the presentation of the plaintiff before the Court proceedings in Australian Court cannot be stated to be voluntarily submission to the jurisdiction of Australian Court. Further, the contest of the claim was not based on grounds available under the matrimonial law i.e.

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Indian Law under which the parties were married. Further, it is not the case of the defendant that he had consented to the grant of relief although the jurisdiction of the Forum was not in accordance with the provisions of matrimonial law of the parties. The said stand of the plaintiff is proved by the fact that he had filed affidavit before the Australian Court that he did not submit to the jurisdiction of the said Court and further, the averments and the case of the plaintiff has remained uncontested from the side of the defendant as she did not chose to contest the present matter despite her service.

19. It is matter of record that the respondent has already been exparte and the case of the plaintiff has remained unchallenged and unrebutted. Thus, the plaintiff has proved that the judgments / orders passed by the Australian Court in file no. MLC6473/2021 pertaining to Property Settlement including the judgments/orders dated 02.02.2024, 05.02.2023, 10.08.2021 & 09.09.2021 are without jurisdiction and further order of Australian Court in respect of sale proceeds of Berwick property (AU \$ 150,000 and AU \$ 662,397/50) received by the defendant as Interim Property Settlement, is without jurisdiction and the plaintiff is not bound by the said orders/judgments. The said amount including sale proceeds of Berwick property (AU \$ 150,000 and AU \$ 662,397/50) alongwith proceeds of Clyde North property (AU \$ 82,000), which was forcibly retained by the defendant, are also liable to be returned to the plaintiff. The averments of the plaintiff that the said sale proceeds of AU \$ 82,000 pertaining to Clyde North Property was forcibly retained by the defendant, have

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remained unrebutted and uncontested as the defendant has not contested the present matter.

20. Ld. Counsel for plaintiff had contended that the plaintiff has already proved the defamatory and threatening communication by the defendant as Ex.P-10 and Ex.P-11 in another petition bearing no. HMA No.110/2023, which was filed by the plaintiff herein against the defendant herein for seeking divorce. He has further submitted that copy of judgment in the said petition bearing no. HMA No.110/2023 has already been proved in the present matter as Ex.PW1/1. He has relied upon judgments titled "Hope Plantations Ltd. vs. Taluk Land Board, Peermade and another", (1999) 5 Supreme Court Cases 590 and "Bhanu Kumar Jain vs. Archana Kumar & another", (2005) 1 Supreme Court Cases 787.

21. It has been held in judgment titled "***Hope Plantations Ltd. vs. Taluk Land Board, Peermade and another***" (*Supra*) as under: -

"26. It is settled law that principles of estoppel and res judicata are based on public policy and justice. Doctrine of res judicata is often treated as a branch of the law of estoppel though these two doctrines differ in some essential particulars. rule of res judicata prevents the parties to a judicial determination from litigating the same question over again even though the determination may even be demonstratedly wrong. When the proceedings have attained finality, parties are bound by the judgment and are estopped from questioning it. They cannot litigate again on the same cause of action nor can they litigate any issue which was necessary for decision in the earlier litigation. These two aspects are 'cause of action estoppel' and 'issue estoppel'. These two terms are of common law origin. Again once an issue has been finally determined, parties cannot subsequently in the same suit advance arguments or adduce further evidence directed to showing that issue was wrongly determined. their only remedy is to approach the higher forum if available. the determination of the issue between the parties gives rise to as noted

above, an issue estoppel. It operates in any subsequent proceedings in the same suit in which the issue had been determined. It also operated in subsequent suits between the same parties in which the same issue arises. Section 11 of the Code of Civil Procedure contains provisions of res judicata but these are not exhaustive of the general doctrine of res judicata. Legal principles of estoppel and res judicata are equally applicable in proceedings before administrative authorities as they are based on public policy and justice.”

22. The plaintiff has sought declaration of all documents executed by the plaintiff under threats, extortion, trickery, fraudulent action by defendant which culminated in financial agreement, null and void and not binding upon the plaintiff. The plaintiff by way of his affidavit has deposed that the defendant got executed a number of documents, which culminated in financial agreement, due to the threats and extortion by way of threats for circulating defamatory material for tarnishing the image of the plaintiff to the social media etc. The said defamatory material has been proved as Ex.P-10 and Ex.P-11 in the petition for divorce filed by the plaintiff herein in another petition i.e. HMA No. 110/2023. Copy of judgment of the said petition is Ex.PW1/1. The relevant observations made in the judgment Ex.PW1/1 by Ld. Predecessor of this Court are as follows:-

“103. First allegations of the petitioner is to the effect that respondent had assured him that due to his career requiring him to live in India, she would live in India with him and matrimonial home would be in India but later on the pretext of her supposed commitment to her previous husband not to reside outside Australia with her minor daughters she would be residing in Australia and as a result he had to suffer a long distance marriage which made him travel to Australia if he wanted to be with his son whom he loved dearly. He for no fault of his own, had been through immense agony and anguish of living separately from his own son for years. Petitioner testified to these effect in his examination-in-chief. Even though respondent denied the

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allegation of the petitioner submitting that though she genuinely wanted to live in India with petitioner however due to her commitment towards her daughters from her previous marriage requiring her to stay in Australia, she could not come to live in India and that petitioner was well aware of her commitment, yet she did not choose to contest the claim of the petitioner and cross examine him to belie/disprove what petitioner pleaded and deposed. Unchallenged testimony of the petitioner has got to be believed. Hence, it stands proved that respondent backtracked from her assurance of setting up matrimonial home in India after marriage and thus made the petitioner suffer a long distance marriage and suffer immense agony and anguish of living separately from his own son for years.

.....

109. Petitioner has next alleged about making of a false narrative that she was in dire need of money and sent defamatory and false messages Ex.P10 and Ex.P11 to the petitioner's banker, Mr. Rajeev Duggal, on 06.12.2020 and 10.12.2020 to the effect that she had been tortured for years by being deprived of money for herself and the three children and had been forced to borrow money from even her daughter's boyfriend. The respondent even sent screenshots of these texts to the Indian national team coach, Mr. B Arun, who was on tour to Australia with the petitioner, causing the petitioner extreme humiliation and embarrassment. She also sent the screenshots of these texts to Mr. Dhiraj Malhotra, CEO of Delhi Capitals and to several Indian cricketers, with a view to tarnish the reputation of the petitioner and make him an object of ridicule.

.....

111. Even though respondent d denied the allegation of threatening or blackmailing but admitted to have reached out to Mr. Duggal, Mr Arun and Mr. Dhiraj so that payments to her were made in time as petitioner was delaying payments for sustenance etc. Respondent did not chose to prove her version of the incident that she had to approach the above named persons as petitioner had started delaying payments necessary for the daily expenses, sustenance of the respondent and the children along with clearing the mortgage/loan liabilities nor did she choose to cross examine the petitioner to disprove his version of the incident. Therefore, this court has got to believe as true the version as put forth by the petitioner that she sent defamatory texts to above named persons with a view to pressurize, defame and humiliate him.

.....

113. With respect to petitioner's allegation that she retained AU \$ 82,000 from the sale proceeds of AU 935,000 from a

property of 6 Forest Drive, Clyde North, Australia, she only submitted that issue already stood adjudicated upon before the Family Court in Australia while admitting purchase of property and denying the allegation against herself. No doubt by consent order she was allowed to retain the said sum of AU \$ 82,000 yet it go to show that she initially retained the said amount on her own and it was only subsequently that she was allowed to retain. She did not cross examine the petitioner to prove that she had justifiably retained the said amount at the first instance and court subsequently approved the same in adjudicatory manner. Hence, petitioner has got to be believed that she retained the said amount by issuing threats etc. as alleged by the petitioner.

.....  
121. Petitioner thereafter went on to allege how findings his reputation, stature and cricketing career at stake due to such defamatory and false whatsapp messages published and circulated by the respondent, went on to settle the matter with the respondent by taking divorce by mutual consent. He went on to details the negotiation, how during negotiation she initiated court proceedings by filing Initiating Application on 10.06.2021 before the Family Court in Australia seeking financial order including spousal maintenance, how he was compelled to agree to give to the respondent a sum of AU \$ 150,000 from the sale proceeds of the Berwick property besides school related expenses of the minor son and how subsequent negotiation led to signing of documents called Financial Agreement, Parenting plan etc. and how she was getting consent order from the court without really moving towards the grant of divorce by mutual consent under Hindu Marriage Act and how her deliberate inaction led to failure of all what was agreed to leading to the filing of the present petition.

.....  
123. As noted above respondent left the contest midway and thus neither conducted cross examination of the petitioner qua his testimony nor did lead any evidence to prove her stand that she bonafidely took steps for getting the Indian Divorce Document executed or that she could not have objected to adjusting the said interim monthly amount received from the date of singing the Financial Agreement. Once her version had remained unproved and petitioner's testimony remaining unquestioned, this court has got to believe petitioner's version as true that while keeping the negotiation on she kept on making the petitioner agree to consent orders and then did not come forward to execute the necessary documents so that relation between the parties could legally end and that she

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did all this to extract money from the petitioner. Thus, on overall view of the allegations of the petitioner against the respondent and taking into account the fact that she chose not to contest the present matter despite having taken stand in opposite to the petitioner, it can reasonably be concluded that petitioner has successfully proved all the allegation against the respondent.”

23. The averments and deposition of the plaintiff has remained unchallenged. Thus, the plaintiff has proved that all documents which culminated in the financial agreement, due to the threats, extortion, trickery and fraudulent action by the defendant and the same are null and void and not binding on the plaintiff.
24. Ld. Counsel for plaintiff had contended that no ad-valorem court fees is required to be paid on the petition with respect to reliefs seeking direction to return to the plaintiff the sale proceeds of Berwick property and sale proceeds of Clyde North property as mentioned in pars no.(iii) and (iv) of prayer clause of the petition as the present matter is outcome of matrimonial relationship between the parties and the present petition has been filed before Family Court and the dispute is between husband and wife. Ld. Counsel for plaintiff has relied upon judgments titled as “Saleesh Babu sv. Deepa”, MANU/KE/0647/1996; “Satish Chaudhary vs. Sneha Lata”, MANU/PH/2770/2014; “Mamta and Ors. vs. Hari Kishan”, AIR 2004 Raj 47; “Balwinder Singh vs. Sinderpal Kaur & Ors.”, MANU/PH/1758/2019 and “Ajmer Singh Sindh vs. Madhur Sidhu”, AIR 2010 J&K 42.
25. It has been held by Hon’ble High Court of Kerala in judgment titled as “*Saleesh Babu vs. Deepa*” (*Supra*) as under: -

“6. In determining the question arising for decision, we have to bear in mind the object of the Family Courts Act. The Family Courts Act was enacted with the object of creating a special set up for the settlement of family disputes laying emphasis on conciliation and achieving socially desirable results without adherence to rigid rules of procedure and rules of evidence. This was based on the recommendation of the Law Commission in its 59th report that in dealing with disputes concerning the family, the court ought to adopt an approach radically different from that adopted in ordinary civil proceedings. One of the objectives of the Act, is also to bring succor to women and children who have been abandoned by their husbands and fathers. In this context, when Rule 3 speaks of the initiation of all proceedings before the Family Court by way of a petition, it will be in consonance with the object sought to be achieved, to understand the proceeding only as a petition not warranting payment of ad valorem fees under the Court Fees Act. The Court Fees Act prescribes the fee to be paid on applications to be made to a court. Section 7 of the Family Courts Act directs that the Family Court shall be deemed for the purpose of exercising jurisdiction under the Act, to be a District Court or other subordinate Civil Court for the area to which the jurisdiction of the Family Court extends. It is therefore clear that Section 7(c) of the Act takes within its purview a suit or proceeding between the parties to a marriage with respect to the property of the parties or any of them. The claim by a wife therefore for recovery of her property from her husband would come squarely within the jurisdiction of the Family Court and obviously in view of Rule 3 of the Rules, by way of a petition. But Section 7(1)(b) of the Act would indicate that the Family Court should be deemed as a District Court for the purpose of entertaining an application referred to in Section 7 of the Family Courts Act. Since the proceeding is to a court which is deemed to be a District Court and since the proceeding would commence by way of an application, it is obvious that such an application would be governed by Schedule II of the Court Fees Act. Schedule II provides for petitions under various matrimonial enactments Obviously, a claim for return of her property by a wife against her husband does not come under any of the specific sub-clauses under Schedule II Article 1. We have therefore to look to the residuary article (as there is no other article applicable) to determine what is the fee payable on such a petition. It is clear from Schedule II Article 11(1)(2)(ii) of the Court Fees Act that the fee payable in a petition to the Family Court which is not otherwise provided for in the Court Fees Act, would be Rs. 10. This is so, notwithstanding the

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*fact that the claim in the petition involves a claim for recovery of an ascertained sum of money or specific property. If the fees payable on a petition under the Family Courts Act in respect of a claim by a wife against her husband or vice versa is governed by Schedule II Article 11(1)(2)(ii) of the Court Fees Act, it appears to be clear to us that the court fee payable on the appeal would also be the same.”*

26. In view of the above said legal position, this Court is of the view that no ad-valorem court fees is required to be filed by the plaintiff for the reliefs seeking directions against the defendant to return to the plaintiff the sale proceeds of Berwick property and sale proceeds of Clyde North property as mentioned in paras no.(iii) and (iv) of prayer clause of the petition
27. In his affidavit Ex.PW1/6, which was filed before the Australian Court, it is inter alia stated by the plaintiff herein that at the outset, he does not submit to the jurisdiction of Family Courts at Australia in the matters of divorce, custody or parenting, nor do he consented any relief sought by the defendant herein in this regard. It is further averred that even with regard to property and maintenance, he appeared and gave consent to some orders before the Federal Court and Family Court of Australia under threat and extortion by the defendant as detailed in his divorce petition i.e. HMA No.110/2023 pending before the Family Court at New Delhi and his such appearance and consent stands vitiated for that reason. He further stated that it is the Family Court at New Delhi that has the jurisdiction in all matrimonial disputes between them and without prejudice to the above, he is making this affidavit. The said affidavit has been relied upon by the plaintiff in the present matter, but the defendant has remained exparte in the

present matter and hence, the contents of the above said affidavit have remained uncontested and unrebutted and this Court has no reason to disbelieve the same.

28. The petitioner has sought injunction restraining the defendant from enforcing anti-suit injunction passed by the Family Court at Australia vide order dated 10.8.2021 in File No. MLC 6473/2021 and further sought injunction restraining the defendant from enforcing judgment/order dated 2.2.2024 passed by the Family Court in above said file no. against the plaintiff either in India or in Australia.

29. Ld. Counsel for plaintiff has contended that it is the Indian Court, which has got jurisdiction to try the matter pertaining to matrimonial relations between the parties and further contended that the Australian Court has got no jurisdiction as the law followed in Australian Court is inconsistent and repugnant to the policy and law followed in Indian Court. Ld. Counsel for the plaintiff has relied upon judgment titled as ***“Interdigital Technology Corporation and Ors. vs. Xiaomi Corporation & Ors.” (Supra)***. It has been held by Hon’ble High Court of Delhi in the said judgment as under: -

“125. In my view, therefore, it is totally impermissible for a Court in one sovereign jurisdiction to injunct the party before it from pursuing its cause against infringement of its intellectual property before another sovereign jurisdiction, where such latter jurisdiction is the only forum competent to adjudicate the claim of infringement, save and except where continuation of the infringement proceedings are vexatious or oppressive to the proceedings pending before the former, injuncting, court. The mere fact that one or other aspect of the controversy may overlap cannot be a ground to grant such injunction. Nor can the consideration of the two courts arriving at differing decisions on that part of the issue which may overlap be regarded as sufficient to

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grant such injunction, which would result in denying the plaintiff seeking injunction against infringement the right to agitate such claim before the only forum competent to adjudicate thereon. Such injunction would be ex facie destructive of the principle of comity of courts. It cannot be tolerated even for a day. A clear case for injuncting enforcement, against the plaintiff, before the court before whom the action for infringement is brought, of such a diktat is, therefore, made out. Grant of anti-enforcement injunction is, therefore, imperative in such a case.

126. The right of the citizen, in this country, to legal redress to ventilate his legitimate rights, is hallowed, sacred, and fundamental. It is a sanctified and preambular constitutional goal, and derives sustenance from the most sublime of our fundamental rights, including those consecrated by Articles 14 and 21. It is an inviolable and inalienable facet of access to justice. It triumphantly carries forward the torch lit, over two centuries ago, by Chief Justice Marshall in *Marbury v. Madison* which hailed the right to obtain civil redress as “the very essence of civil liberty”. What the order of the Wuhan Court does, unfortunately, is to deny, to the plaintiffs, the right to even flavour this essence, without due justification.

127. Specifically in the Indian context, our Constitution guarantees “justice, social economic and political” to every citizen. This guarantee cannot be sacrificed at the altar of comity.

Concealment, lack of fairness and transparency by the defendants before this Court.”

30. This Court has already observed that this Court has got jurisdiction to adjudicate the dispute pertaining to the matrimonial disputes including property of the parties. It has also been observed by this Court that the Australian Court did not have jurisdiction to try matrimonial dispute between the parties including disposal of their property in view of the fact that the marriage between the parties had taken place in India and under Sikh rites and ritual and thus, the matrimonial disputes between them are to be governed by Hindu Marriage Act. Further, the grounds in Hindu Marriage Act and the Australian Family Law Act are not similar, rather they are

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inconsistent and repugnant. Therefore, Ld. Australian Court did not have the jurisdiction to entertain the marital disputes between the parties including their property involved. Thus, in the present facts & circumstances, case is made out in favour of the plaintiff and the defendant is to be restrained from enforcing anti-suit injunction passed by the Family Court at Australia vide order dated 10.8.2021 in File No. MLC 6473/2021 and also required to be restrained from enforcing order/judgment dated 2.2.2024 passed in File No. MLC-6473/2021.

31. Thus, keeping in view all the facts & circumstances, suit of the plaintiff is decreed on the following terms:-

(a) A decree of declaration to the effect that the plaintiff is not bound by judgments/orders passed by the Family Court at Australia in File No. MLC6473/2021 titled as “Aesha Dhawan (nee Mukherji) vs. Shikhar Dhawan”, including the judgments/orders dated 02.02.2024, 05.12.2023, 10.8.2021 & 09.09.2021 pertaining to “Property Settlement” is passed in favour of the plaintiff and against the defendant;

(b) A decree for declaration to the effect that all documents executed by the plaintiff which culminated in the Financial Agreement, are null and void and are not binding on the plaintiff as the same were executed by the plaintiff under threats, extortion, trickery and fraudulent action exercised by the defendant upon the plaintiff, is passed in favour of the plaintiff and against the defendant;

(c) A decree for directing the defendant to return to the plaintiff the sale proceeds of property 10 Pagebrook Road, Berwick, Australia totaling to AU \$ 812,397/50 (AU \$ 150,000 and AU \$ 662,397/50) received by her as “Interim Property

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पारिवारिक न्यायालय, नई दिल्ली जिला  
Family Courts, New Delhi District  
पटियाला हाऊस, दिल्ली  
Patiala House, Delhi

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Settlement” and to return to the plaintiff amount of AU \$ 82,000 as part sale proceeds of the property 6 Forest Drive, Clyde North, Australia forcibly retained by her, is passed in favour of the plaintiff and against the defendant;

(d) The defendant is further directed to pay interest @ 9% per annum on the amount mentioned in para (c) above from the date of filing of the present suit till final realization.

(e) A decree for injunction restraining the defendant from enforcing the anti-suit injunction order dated 10.8.2021 and from enforcing the judgment/order dated 02.02.2024, passed by Ld. Family Court in Australia in File No.MLC6473/ 2021 titled “Aesha Dhawan (nee Mukherji) v. Shikha Dhawan” against the plaintiff, is passed in favour of the plaintiff and against the defendant.

32. Suit of the plaintiff is decreed accordingly with no order as to the cost.

33. Decree sheet be prepared accordingly.

34. **File be consigned to Record Room after necessary compliance.**

**Announced in the open court.**  
(Judgement contains 33 pages)

**(DEVENDER KUMAR GARG)**  
Judge, Family Court, PHC  
New Delhi/23.02.2026

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