

(2020) 02 DEL CK 0273

In the Delhi High Court

Case No : Civil Suit (OS) No. 1321, 1435, 1137, 2161 Of 2006

Natasha Kohli And Ors

APPELLANT

Vs

Mon Mohan Kohli And Ors

RESPONDENT

Date of Decision : 24-02-2020

Acts Referred:

Hindu Marriage Act, 1955 — Section 24
Mental Health Act, 1987 — Section 2(l), 2(1)(s), 54(3)
Mental Healthcare Act, 2017 — Section 126(2)(f), 2(1)(s)
Indian Penal Code, 1860 — Section 448, 494, 495
Code Of Civil Procedure, 1908 — Order 32 Rule 4, Order 32 Rule 5, Order 32 Rule 9,
Order 32 Rule 10

Citation : (2020) 02 DEL CK 0273

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Amit Sibal, Nandita Rao, Ankur Mahindro, Shresth Choudhary, Anil Airi, Ravi Chandna, Sukanya Lal, Vipul Ganda, Aastha Trivedi, Chandreyee Maitra

Final Decision : Disposed Off

Judgement

“

Rajiv Sahai Endlaw, J",,,

1. CS(OS) No.1321/2006, as per the amended memo of parties dated 16th January, 2017 is filed by Natasha Kohli (Natasha) against (a) Mon Mohan",,,

Kohli (MMK), (b) M/s Jey Kay Pvt. Ltd. (JKPL), and, (c) Joginder Nath Kohli (Joginder) [since deceased through his legal heirs Veena Kohli and",,,

Arjun Kohli], for (i) permanent injunction restraining MMK from interfering with peaceful possession and enjoyment of Natasha of property no.15A",,,

Amrita Shergill Marg, New Delhi comprising of land ad-measuring 2227 sq. mtrs. and from creating third party interest therein; (ii) permanent",,,

injunction restraining the defendants, from changing the shareholding of JKPL by increasing the authorized share capital of JKPL and from issuing",,,

additional or subscribing un-issued 800 shares from authorized share capital of 2000, of JKPL; and, (iii) mandatory injunction directing the defendants",,,

to transfer 300 shares of JKPL from MMK to Natasha.,,,

2. CS(OS) No.1321/2006 came up first before this Court on 19th June, 2006 when, while issuing summons thereof, vide ex partead-interim order, the",,,

defendants were restrained from dispossessing Natasha from property no.15A, Amrita Shergill Marg, New Delhi and the parties directed to",,,

maintain status quo qua the title and occupancy of the property.Vide subsequent order dated 21st April, 2010, the applications for interim relief were",,,

disposed of directing, that (i) Natasha continues living in the guest annexeof the property and not interfere in the main building where MMK and",,,

Rishab Kohli (Rishab), sonof Natasha and MMK,were living except that Natasha could go to Rishabâ?bed room and stay with him as per the wishes",,,

of Rishaband Rishab could also go to the guest annexe and stay with Natasha as and when he liked; (ii) Natasha does not interfere in the possession",,,

of MMK of the main building; (iii) MMK, JKPL and Joginder shall not sell and part with possession of property no.15A, Amrita Shergill Marg, New",,,

Delhi; (iv) the defendants to not create any obstruction in the passage leading to the guest annexe or other obstruction which results in hindrance in",,,

use of guest annexe by Natasha; and, (v) Natasha also does not create any hindrance in use of main building by MMK.",,,

3. FAO(OS) Nos.303-06/2010 preferred against the said order were disposed of vide judgment dated 24th September, 2010 by directing Natasha to",,,

confine herself to the room styled as the study and use of the small Powder Room or toilet in front of the study and contiguous to Rishabâ?s bed room",,,

and to not enter the master and mezzanine bed rooms; Natasha was also permitted use of the guest annexe / outhouse; it was clarified that except for",,,

the master bedroom, Natasha shall be entitled to use the remaining part of the main house i.e. the Kitchen, Dining Room, Sitting Room and Drawing",,,

Room.,,,

4. Special Leave Petition (Civil) Nos. 34533-34536/2010 preferred against the judgment dated 24th September, 2010 were dismissed on 2nd March",,,

2012.,,,

5. On the pleadings of the parties, following issues were framed in CS(OS) No.1321/2006 on 10th September, 2012:",,,

â??(i) Whether the plaintiff has any rights whatsoever in the suit property? OPP,,

(ii) Whether the plaintiff has been in possession, actual or constructive, of the suit property since 1994? OPP",,,

(iii) Whether the suit has not been valued properly for the purposes of Court fees and jurisdiction? OPD,,

(iv) Whether the present suit to the extent it seeks transfer of shares of the defendant No.2 Company in favour of the plaintiff is barred by,,

limitation? OPD,,

(v) Whether the plaintiff is entitled for the reliefs prayed for? OPP,,

(vi) To what other relief, if any, is the plaintiff entitled?â??",,,

6. IA No.672/2014 under Order XXXII Rules 4 and 5 of the CPC was filed by Kumkum Talwar (Kumkum) and Vinay Mahajan (Vinay), sisters of",,,

MMK, pleading that MMK was not keeping good health and was not able to defend CS(OS) No.1321/2006 before the Court and seeking to be",,,

appointed as guardian of MMK. The said application was allowed vide order dated 26th February, 2014, appointing Kumkum and Vinay as",,,

guardian ad litem of MMK.,,,

7. Else, suffice it is to record that applications have been filed from time to time and CS(OS) No.1321/2006 has been languishing at that stage, with",,,

part evidence only of Natasha being recorded therein.,,,

8. CS(OS) No.1435/2006 has been filed by Rishab against his father MMK for partition, of (i) property no.15A, Amrita Shergill Marg, New Delhi; (ii)",,,

Printers House Pvt. Ltd. (PHPL); and, (iii) eight acres of land in District Tehri Garwal, village Singtali Patti, Dogee, Tehsil and Pargana Narendrapur",,,

Uttaranchal, equally between Rishab and MMK.",,,

9. It is the case of Rishab in CS(OS) No.1435/2006, that (i) he was born on 11th May, 1997 and at the time of institution of the suit was still a minor",,,

and acting through his mother Natasha; (ii) MMK and Natasha were married on 14th November, 1994; (iii) MMK is the head of Hindu Undivided",,,

Family (HUF) comprising of MMK and Rishab; (iv) the parties belong to an established business family, patriarch whereof was Late Sh. Krishan",,,

Dass Kohli; Krishan Dass Kohli had three children, Ms. Vijay Kohli, who died a

spinster, MMK and Joginder; (v) the said family was carrying on",,,
 business of manufacturing and trading of printing machines through the vehicle of PHPL, JKPL, Sun Flower Enterprises and M/s Kohli Graphics",,,
 Systems; (vi) there were two other HUFs, viz. Joginder Nath Kohli HUF and Mon Mohan Joginder Nath Kohli HUF; (vii) in terms of Memorandum",,,
 of Family Settlement dated 16th October, 1995, all disputes amongst the members of the family were amicably settled and a decree in terms whereof",,,
 was passed in suit No.824/1993 of this Court, then pending amongst the family members; (viii) as per the said Memorandum of Family Settlement",,,
 dated 16th October, 1995, the control and management of PHPL, demarcated half share designated as 15A of property no.15, Amrita Shergill Marg",,,
 New Delhi, and eight acres of land in District Tehri Garwal, village Singtali Patti, Dogee, Tehsil and Pargana Narendrapur, Uttaranchal fell to the share",,,
 of MMK; (ix) the relationship between MMK and Natasha, being the parents of Rishab, had soured, with CS(OS) No.1321/2006 aforesaid having",,,
 been filed by Natasha; (x) the entire expenses of Rishab was being borne by Natasha from her independent business in the name and style of,,
 Travancore Management Resources Pvt. Ltd. of manufacture and sale of wooden furniture, and MMK had been controlling the income from the",,,
 ancestral properties aforesaid, without giving any share to Rishab; (xi) PHPL had authorized share capital of Rs.50 lacs divided into 50,000 equity",,,
 shares of Rs.100/- each; the issued and paid up share capital was Rs.21 lacs divided into 21,000 equity shares of Rs.100/- each; MMK was holding",,,
 20,839 shares i.e. 99.23% of the total shareholding of PHPL; (xii) MMK was negotiating for the sale of shares of PHPL and of property no.15A",,,
 Amrita Shergill Marg, New Delhi; and, (xiii) Rishab also had a share in the shareholding of PHPL and in property no.15A, Amrita Shergill Marg, New",,,
 Delhi and in land aforesaid.,,,
 10. CS(OS) No.1435/2006 came up first before this Court on 19th July, 2006 when the counsel for MMK also appeared on seeing the matter in the",,,
 cause list. For long thereafter, attempts were made for amicable settlement, however to no avail. Ultimately, IA No.673/2014 under Order XXXII",,,
 Rules 4 and 5 CPC was filed by Kumkum and Vinay in CS(OS) No.1435/2006 also, for appointment as guardian d-litem of MMK and it was allowed",,,
 vide order dated 21st March, 2014.",,,

11. It may be stated that MMK contested CS(OS) No.1435/2006i, nter alia pleading that (i) while only members of the Kohli family had shares in",,,

PHPL, JKPL, Sun Flower Enterprise and M/s Kohli Graphics Systems, the respective shares were distinct and independent and from self-acquired",,,

income held by individual members separately; (ii) only 160 shares of PHPL belong to the HUF of which MMK was the Karta and the remaining",,,

shares held by him were in his individual capacity; (iii) MMK had been meeting the expenses of Rishab; (iv) PHPL, JKPL, Sun Flower Enterprises",,,

and M/s Kohli Graphics Systems were not part of any HUF and MMK had paid consideration for acquisition of shares in these entities and hence the",,,

rights and interests in these entities were personal self-acquired properties of MMK; (v) the land at Uttaranchal was the sole and exclusive property",,,

of MMK who had purchased the same from his own means; rather the adjoining land had been purchased by Natasha; (vi) there was no partition of",,,

HUFs in the Memorandum of Family Settlement dated 16th October, 1995; the said Memorandum of Family Settlement was executed only to ensure",,,

that MMK and Joginder obtain full control over separate business so as to enable them to individually conduct their respective business without",,,

involvement of the other; and, (vii) that the suit had been filed at the behest of Natasha.",,

12. Before proceeding with further narrative of CS(OS) No.1435/2006, it is expedient to at this stage take up CS(OS) No.1137/2014.",,

13. CS(OS) No.1137/2014 was filed by Rishab and Natasha, against (a) PHPL, (b) MMK, (c) M.M. Kohli (HUF), (d) Arvind Chadha holding",,,

0.0048% of shareholding of PHPL and being a Director of PHPL; (e) Vimal Chandra Hoon,also being a Director without any shareholding of PHPL;"",,,

and, (f)Manoj Khanna, being the Controller Corporate Affairs of PHPL, for permanent injunction to restrain them from holding the Annual General",,,

Meeting (AGM) of the PHPL.,,,

14. It was the plea of Rishab and Natasha in the said suit, that (i) on 29 th July, 2013, MMK was admitted to Sir Ganga Ram Hospital in a critical",,,

condition and diagnosed as suffering from Intracranial Left Internal Carotid Artery Aneurysm with Sub Arachnoids Hemorrhage; (ii) vide order dated",,,

11th March, 2014 in FAO(OS) No.74/2014 arising, from other litigation between the parties, a Commissioner was appointed to visit MMK on",,,

11th March, 2014 and give finding on the condition of MMK; (iii) the Commissioner reported that MMK was highly disoriented, not being completely",,, aware of his surroundings and the people around him, his speech was heavily impaired and the doctors informed that he was monosyllabic; (iv) Rishab",,, had vital interest in the proper management of the PHPL and it was not clear who was attending to the affairs of the PHPL; (v) Rishab and Natasha",,, were being deprived of knowledge of affairs of PHPL; and, (vi) AGM of PHPL was proposed to be held to defeat the applications with respect",,, thereto filed in other pending litigations.,,,

15. CS(OS) No.1137/2014 came up first before this Court on 23rd April, 2014 when it was ordered to be listed along with CS(OS) No.1435/2006",,,

aforesaid. The counsels were heard on 24th April, 2014 and common order passed in CS(OS) No.1435/2006 and CS(OS) No.1137/2006 and certain",,,

suggestions made. Vide common consent order dated 25th April, 2014 in CS(OS) No. 1435/2006 and CS(OS) No.1137/2006, it was agreed and",,,

ordered that (i) the PHPL shall within ten days of demand by Natasha give inspection to Natasha of all records of PHPL to which she was entitled to,,

as shareholder thereof; (ii) the PHPL, without specific order of the Court, shall not issue new capital or affect any change in shareholding or affect",,,

any change in the Board of Directors (save for re-appointment of the Directors who were eligible therefor) or sell, transfer or encumber in any",,,

manner any immovable property or make any borrowing (except for the purpose of business and from banks and financial institutions from which it,,

already had arrangement in this respect)or affect any change in the Memorandum / Articles; and, (iii) the PHPL shall serve notice on Natasha, in",,,

CS(OS) No.1137/2014, of any AGM / Extraordinary General Meeting, in accordance with law.Though CS(OS) No.1137/2014 was disposed of in",,,

terms of common consent order dated 25th April, 2014, but IA No.15431/2015 of Rishab for modification of the order dated 25th April, 2014 is pending",,,

and the said application in the said suit is being taken up along with other pending litigations.,,,

16. At this stage, it is also apposite to take up CS(OS) No.2161/2015.",,,

17. CS(OS) No.2161/2015 has been filed by Kumkum, Vinay and MMK, against Natasha and Rishab, seeking, (a) appointment as guardian of person",,,

and property of MMK; and, (b) perpetual injunction restraining Natasha and

Rishab from obstructing Kumkum and Vinay from acting as guardian of",,,

MMK and from running the affairs of the PHPL.,,,

18. CS(OS) No.2161/2015 came up first before this Court on 27th July, 2015 when Natasha and Rishab appeared on caveat.",,,

19. Vide common consent order dated 21st August, 2015 in all the four suits i.e. CS(OS) No.1321/2006, CS(OS) No.1435/2006, CS(OS)",,,

No.1137/2014 and CS(OS) No.2161/2015, (i) a retired Judge of this Court was appointed as the Observer, to oversee the functioning of the PHPL",,,

and certain specific directions qua the functioning of PHPL issued; (ii) a Medical Board comprising of three doctors, under auspices of All India",,,

Institute of Medical Sciences (AIIMS) ordered to be constituted, to review the medical condition of MMK and to recommend the future course of",,,

treatment in India or abroad; (iii) the entire expenses of medical treatment of MMK ordered to be borne by the PHPL; and, (iv) all the parties",,,

restrained from communicating with any employee of PHPL or the police and which communication was likely to go against the interest of smooth",,,

running of PHPL.,,,

20. Common order dated 21st April, 2016 in all the four suits, records that Mr. V.C. Hoonand Mr. Arvind Chadha had resigned from the Board of",,,

Directors of PHPL.,,,

21. The suits continued to languish, with one application after another being filed therein. However for the purpose of the present judgment, need to",,,

detail the said proceedings is not felt.,,,

22. The retired Judge of this Court appointed as Observer of the PHPL, resigned on 11th March, 2016 and another retired Judge of this Court was",,,

appointed in his stead; however he also resigned on 15th September, 2017. Vide order dated 26th September, 2017 yet another retired Judge of this",,,

Court was appointed who however expressed inability. Finally, vide order dated 5th December, 2017 yet another retired Judge of this Court was",,,

,,,"and/orfinal decree of partition dividing the properties (i) 15A, Amrita Shergill

Marg, New Delhi (ii) Printers House Ltd., 10, ScindiaHouse,Connaught Place, New Delhi, (iii) Eight acres of land in District TehriGarwa",,,

Village Singtali,"Narendrapur,Uttaranchal? If so, to what share would the plaintiff and the defendantbe",

entitled? OPP,,

33. Before recording the contentions of the counsels, it is deemed apposite to set out hereinbelow the portions, relevant for the present purpose, of the",,,

undisputed Will dated 13th September, 2006 of MMK:",,,

â??2. I married Natasha Chatha, known as Natasha Kohli. After her marriage to me in the year 1994 from which union I have a son",,,

Rishab Kohli, aged 9 years, who is living with me at my aforesaid residence.",,,

3. The relationship between me and Natasha started going sour more than two years ago for no reason that I or none of my mutual friends,,

could fathom. She withdrew herself from my company, from my bedroom and started sleeping in the guest room of my house. I am â??at",,,

present faced with several legal proceedings filed by her to extract money and usurp my assets. Her actions have caused me and also,,

Rishab deep mental anguish and pain. Since the time of our marriage I had supported her in every way as any husband wouldâ?|.in meeting,,

her every wish and desire. When she wanted to expand her business in the new premises, I provided funds and support as a result of which",,,

she now has an independent factory which she owns in NOIDA from which she receives a considerable amount of income.,,,

4. In the recent past she has started severely poisoning Rishabâ?s mind and restraining him from seeing me. She now even sleeps with his in,,

his room and is generally trying to drive a wedge between him and me. A complete breakdown in our relationship took place when she filed,,

a series of legal proceedings without any provocation, and without cause and without any warning or discussion and obtained an ex parte",,,

restraining order. In meeting her every wish and providing her every conceivable luxury, I know that I did not heed the advice of my elders",,,

and my well-wishers and this inevitably lead to a reverse effect â?" her wanting more and more. It is now clear to me that she wants nothing,,

but my wealth and my assets. After careful consideration of the above and other circumstances which I have mulled over for several weeks,,

and after discussions with my friends, I have decided to make this will.",,,

5. I hereby declare and direct that no part of my estate or any benefit therefrom will go to Natasha. I inserted Natashaâ?s name as my,,

nominee in my life insurance policies and in order places such as bank accounts,

mutual funds, etc. I hereby declare that notwithstanding",,,

the said nominations, Natasha will not inherit or receive any of the said assets or any other wherever found.",,

6. As stated above, Natasha has been carrying on a proprietary business of furniture making under the name and style of M/s. FILO",,,

Interior Decorators (P) Ltd. (among others) from B-25, Sector 57, NOIDA, UP from which she receives an income which is more than",,,

adequate for her. Before she married me she lived together as a wife of one Mr. Prakash Mehta in London although she claimed to me that,,

she was never married. However, I explicitly disinherit Natasha from all my estate and direct her to return to the estate all that she owes me.",,

7. Natasha has filed the proceedings against me claiming parts of my house and parts of my business, although she has not filed",,,

proceedings for divorce perhaps with a view to continue to remain â?? my wifeâ?,, in name with whatever advantage or benefit that she can",,,

derive from it. I am advised to file proceedings of my own which I might eventually do. I direct that Natasha is not entitled to and will not be,,

entitled to live in my house at 15 Amrita Shergill Marg. She has been opposed to my renting the house. Small family as we are, we do not",,,

need such a large accommodation and I do prefer to rent this out and I informed that it can easily fetch a rent of Rs.8 lakhs per month. By,,

Natasha continuing to forcibly occupy a portion of the house, it will be impossible to rent it out. Iâ?ve therefore, direct that should she still",,,

continue to occupy the house after my demise, she would be liable to pay to my estate Rs.4 lakhs per month or such higher market rent as",,,

may be prevalent at that time and I direct my trustees to recover the same from her and to fix rent for time to time.,,,

8. As stated above, I have one son, Rishab Kohli, now aged 9 years and no other direct descendant. I declare that all my assets, wherever",,,

found will be held for the benefit of my son by the following three trustees until Rishab reaches his 30th (Thirtieth) birthday, whereupon",,,

these will be transferred to my son Rishab Kohli and until then will be used by the trustees in the manner stated in para 9 and elsewhere in,,

this will.,,,

a. Mr. Arvind Chaddha, son of Shri R K Chadha, aged 50 years resident of

Summerleas No.19, Gadaipur Bandh Road, New Delhi;",,

b. Mr. Vimal Chandra Hoon, son of Shri N C Hoon, aged 69 years resident of W-175, Greater Kailsh-II, New Delhi;",,

c. Mr. Virendar Nath Koura, Son of Dr. D N Kaura, aged 66 years, Resident of 7, NavjeevanVihar, New Delhi (hereinafter referred to as",,

â??Trusteesâ??),,,

9. The trustees will use the trust funds in such manner in their discretion as they think fit for education, upkeep, upbringing, marriage and",,

all expenses that they in their wisdom think appropriate to incur for Rishab. As far as possible they will use only the interest or earnings.,,

However, I place no restrictions on them and my trustees will have the power to use the capital asset and income as they think appropriate.",,

The trustees will have the power to invest the funds in appropriate assets securities including land and building and will do everything that I,,

or any prudent person would have done for the protection of the estate.,,

10. The quorum for the trust will be two. In the event that any of the trustees is not able to act by reason of his non- availability, death or",,

incapacity, the remaining trustees will choose another trustee immediately, so that at all times, there are three trustees. In the event of a",,

trustee wishing to resign, he will join the other trustees in naming his successor trustee. All decisions shall be taken and approved by a",,

majority of trustees.,,

11. For removal of any doubt, I declare that my property No.15, Amrita Shergill Marg, New Delhi is not an HUF property. It has never been",,

declared as HUF property and one part of the property is owned by me and the other part by my brother, Mr. J.N. Kohli. Our father lived",,

with us before the property was divided. The property was bought from my personal funds and itâ??s never had the character of HUF,,

property as the history and tax records will show.,,

12. I intend to form a trust during my lifetime. If I do so, then the trustees may at their discretion collect together my assets under the same",,

trust. If not, they might form a trust called â??Rishab Kohli Benefits Trustâ? or in any other manner and open suitable bank account or",,

name.,,

13. I direct that in no circumstances that Natasha inherit any part of my estate either directly or through Rishab's inheritance. In other,,

words, I put a restriction on any part of my estate inherited by Rishab being inherited in turn or at any point of time by Natasha or her",,,

getting benefit out of it. Same as above, Rishab will be absolutely entitled during his lifetime to use the property in any manner that he likes",,,

once he gets the control of it upon reaching his 30th birthday as above. I clarify that he will have the right to disposal and conversion of the,,

property and the only restriction that I am placing in the event of his dying intestate is that the property should not be inherited by Natasha.,,,

14. I give and bequeath to each of my sisters, Mrs. Kamla Sethi, Mrs. Vinay Mahajan and Mrs. Kumkum Talwar a sum of Rs.10,00,00,000/-",,,

(Rupees Ten Crores Only) each out of my estate. Should any of my said sisters predecease me, then the sum payable to her will be divided",,,

equally amongst her surviving children.,,,

15. I should like to make clear that I have serious disputes and differences with my brother J.N. Kohli and he has spared no effort to,,

traumatize me and my family. He is well settled and well provided for by our father. I do not wish to make any bequest in his favour or in,,

favour of his wife or son. It is my sincere desire that after my death he will leave my family in peace.,,,

16. I appoint Mr. Vimal Chandra Hoon as the executor of this will and failing him Mr. Arvind Chadha. The executor will gather together all,,

my assets wherever found, pay all liabilities if any, and will hand over the balance estate to the body of the trustees referred to above.",,,

17. The executor and trustees can at their discretion, appoint such professionals as lawyers, chartered accountants etc. as may be",,,

necessary and will pay them out of the trust fund. They will also be entitled to debit to my estate any reasonable fee or expenses that they,,

may incur in discharge of their duties.â??,,

34. The senior counsel for Natasha and Rishab informed that besides the aforesaid litigations, the following other litigations / proceedings are pending",,,

between the parties:,,

(i) Petition filed by MMK seeking nullity of his marriage with Natasha on the ground that Natasha was already married to one Mr. Kai Boccagna at,,

the time of her marriage with MMK.,,

(ii) Criminal complaint filed by MMK against Natasha of the offence of bigamy.,,

(iii) Criminal complaint filed by MMK against Natasha of the offence of trespass.,,

(iv) Petition filed by Natasha against the order of the Family Court on her application under Section 24 of the Hindu Marriage Act, 1955, denying her",,

maintenance.,,

(v) Criminal complaint filed by Natasha against the PHPL and others with respect to illegal transfer of shares from various charitable trusts to MMK.,,

(vi) Special Leave Petition (SLP) preferred by Natasha against the order dated 28th March, 2014 in Execution Petition No.30/2007.",,

(vii) Proceeding under the Mental Health Act, 1987 instituted by Rishab, seeking appointment of a guardian of person and property of MMK.",,

(viii) Writ petition filed by Rishab on behalf of MMK, with respect to income tax notice received on account of Kumkum, Vinay and the Chartered",,

Accountant not attending to the tax affairs of MMK and by interim order wherein the income tax notice has been stayed and an amicus appointed to,,

file the income tax returns of MMK.,,

(ix) Criminal complaint filed by Kumkum against Natasha.,,

(x) Criminal complaint filed by Kumkum against Rishab.,,

(xi) Appeal filed by heirs of Joginder in collusion with Kumum and Vinay, to transfer the shares of JKPL, in violation of the decree which ensures that",,

neither Joginder nor MMK could usurp the property.,,

35. The senior counsel for Natasha and Rishab contended that (a) in view of MMK now being mentally oblivious, his marriage has no personal",,

consequences especially since the Will dated 13th September, 2006 aforesaid of MMK is admitted and under which Natasha does not inherit any part",,

of the estate of MMK; (b) Natasha,for the sake of putting an end to litigation, is willing to withdraw the petition filed by her challenging the order of",,

the Family Court on an application under Section 24 of the Hindu Marriage Act as well as the criminal complaints and SLP aforesaid filed by her; (c),,

similarly, for the sake of putting an end to the litigation and provision being made with respect to person and properties of MMK, Rishab is also willing",,

to withdraw the proceedings initiated by him under the Mental Health Act; (d) the writ petition aforesaid would conclude once the income tax returns,,

are filed and the impugned income tax notice is withdrawn; (e) Kumkum and Vinay, for fighting the present litigations as well as other litigations",,,

mentioned above, are spending good monies of MMK, resulting in wastage; (f) the filing of criminal complaints filed by Kumkum against Natasha and",,,

Rishab show the hatred of Kumkum and Vinay towards Natasha and Rishab, in disregard of the wishes of MMK; and, (g) the issue involved in the",,,

appeal preferred by the heirs of Joginder can be settled in those proceedings.,,,

36. The senior counsel for Natasha and Rishab otherwise contended that, (a) under the Memorandum of Family Settlement dated 16th October, 1995",,,

between Krishan Dass Kohli (being the father of MMK and Joginder) and Vijay Kohli (being the sister of MMK and Joginder) of the first part, MMK",,,

and Natasha of the second part and Joginder, his wife and son of the third part, 600 shares representing 50% of the issued and subscribed share",,,

capital of JKPL were in the name of MMK and the other 600 shares representing the balance 50% of the share capital of JKPL were in the control",,,

of Joginder; the 600 shares held by MMK in JKPL were simultaneously transferred to Monat Developers Pvt. Ltd., in which MMK and Natasha are",,,

the only shareholders; (b) the aforesaid Memorandum of Family Settlement dated 16th October, 1995 was incorporated in the decree in Suit",,,

No.857/1993, then pending between the parties to the Memorandum of Family Settlement; (c) under the aforesaid Memorandum of Family Settlement",,,

dated 16th October, 1995, MMK and Natasha have joint rights in property no.15A, Amrita Shergill Marg, New Delhi; (d) Natasha, to finish off the",,,

litigations, is willing to give her said rights in the property in favour of Rishab, subject to having a right of residence in the property in her lifetime; (e)",,,

the order dated 24th September, 2010 in FAO(OS) No.303-306/2010 aforesaid (arising from order dated 21st April, 2010 in CS(OS) No.1321/2006)",,,

observes that prima facie Natasha is a part owner of property no.15A, Amrita Shergill Marg, New Delhi which is also her matrimonial home; (f)",,,

Kumkum and Vinay claim to have employed 18 persons to take care of MMK and out of the monies of MMK, a sum of Rs.2 lacs per month is being",,,

expended towards their salary; (g) the same shows that it is not Kumkum and Vinay who are taking care of MMK but have merely employed staff at",,,

a huge expense and none of which is a nursing staff as is the need of MMK; (h) the staff employed by Kumkum and Vinay in their own households is",,,

being shown as having been employed for the care of MMK; (i) Vinay, who is living in Gurgaon, claims Rs.1 lacs per month for visiting MMK from",,,

time to time; the same shows that Kumkum and Vinay do not have any love and affection for MMK and are not the right persons to be his guardian;,,

(j) a sum of Rs.80 lacs per annum again, out of the coffers of MMK, is being expended at the behest of Kumkum and Vinay towards fee paid to the",,,

lawyers; (k) MMK has always lived next to Lodhi Garden and there is no reason why he should not continue living there along with his son Rishab; (l),,,

on the contrary, Kumkum and Rishab have taken away MMK from property no.15A, Amrita Shergill Marg, New Delhi; it is also not as if they are",,,

making him reside in their own house; third floor of another house has been hired, where MMK lives alone; (m) it is expedient that MMK, instead of",,,

living alone, lives with his own son Rishab; (n) Kumkum and Vinay, in the past, have requested for being permitted to live in property no.15A, Amrita",,,

Shergill Marg, New Delhi to look after MMK but which request was rejected; (o) the photographs of the house where MMK is presently living and",,,

site plan of property no.15A, Amrita Shergill Marg, New Delhi are shown to contend that MMK can comfortably live in his own house under the care",,,

of his son Rishab; (p) though 600 shares of MMK in JKPL under the Memorandum of Family Settlement dated 16th October, 1995 were to be",,,

transferred to Monat Developers Pvt. Ltd. but were not transferred; (q) Natasha is willing to give an undertaking that upon MMK being shifted to",,,

property no.15A, Amrita Shergill Marg, New Delhi to reside with Rishab, she will not access MMK or interfere in his living in the said house; (r)",,,

Kumkum and Vinay can be permitted access from time to time in property no.15A, Amrita Shergill Marg, New Delhi, to satisfy themselves of the well",,,

being of MMK and also to take him to family functions; (s) a provision can be made from the home care facility of Apollo Hospital or Max Hospital",,,

to take care of medical and health needs of MMK; (t) Dr. Hazooria, General Physician of MMK and his family can continue to attend MMK in",,,

property no.15A, Amrita Shergill Marg, New Delhi; (u) Rishab is 22 years of age and has graduated in Business Management and can look after the",,,

affairs of the PHPL, which over the years, from a hugely successful profit making company is incurring losses; (v) Rishab is the only person most",,,

interested in the financial health of the PHPL, being the ultimate beneficiary thereof; and, (w) at present there are no Directors of the PHPL.",,,

37. The senior counsel for Kumkum and Vinay in their personal capacity as well as guardian ad litem, contended/referred (i) to Suchita Srivastava",,,

Vs. Chandigarh Administration (2009) 9 SCC 1 and Jai Prakash Goel Vs. State AIR 2005 Del 83 to contend that "substituted judgment test",,,

is to be applied for taking any decision for MMK and which requires this Court to step into the shoes of the person who is considered to be mentally,,

incapable and attempt to make a decision which the said person would have made if had been competent to do so; (ii) that the same principles have to,,

be applied while exercising guardianship jurisdiction; (iii) that per Section 2(l) of the Mental Health Act, 1987, the same does not apply to mental",,,

retardation; (iv) attention was drawn to Sections 2(1)(s) and 126(2)(f) of Mental Healthcare Act, 2017; (v) that Rishab cannot be the guardian of",,,

MMK because MMK, when capable of making decision, had challenged the order of payment of maintenance for Rishab and also because Rishab",,,

has filed police complaints against MMK and asked for enhancement of maintenance; (vi) that vide order dated 26th February, 2014 in CS(OS)",,,

No.1321/2006 the undersigned has allowed the application of Kumkum and Vinay for being appointed as guardian ad litem of MMK reasoning that,,

Natasha having interest adverse to MMK and being inimical towards MMK could not be appointed as guardian of MMK and the same holds good,,

today also; (vii) that the sympathies of Rishab are towards his mother Natasha and not towards his father MMK and Natasha is inimical towards,,

MMK and thus Rishab is also disentitled from being the guardian of MMK; (viii) that the criminal complaints filed by Rishab himself against MMK also,,

show that the interest of Rishab is also adverse to MMK; (ix) that the going away of Rishab to foreign lands to study also shows that he has no love,,

for MMK; (x) that Rishab even refused to meet MMK; attention in this regard is drawn to the e-mails dated 20th January, 2012 and 25th January",,,

2012; (xi) that Rishab in fact has been playing in the hands of Natasha, as evident from his complaint dated 14th March, 2009 to the police; attention is",,,

drawn to the application for interim relief filed by Rishab through Natasha in CS(OS) No.1435/2006 where grievance was made of the maintenance,,

ordered to be paid by MMK for Rishab being not paid and it was pleaded that since Rishab was studying abroad, it was impossible for him to",,,

constantly monitor or ascertain the condition of MMK; (xii) that it is wrongly being contended that Vinay is asking for Rs.1 lac per month to visit,,

MMK; attention is drawn to the common consent order dated 21st August, 2015 in all the proceedings aforesaid where it was agreed that an amount",,,

of Rs.2 crores per annum be defrayed for meeting the expenses of MMK including expenses towards upkeep, medical care, legal expenses, rental",,,

etc. from the monies of PHPL; the sum of Rs.1 lac per month was for buying the day-to-day needs of MMK; (xiii) that expenses of MMK having,,

been borne by the PHPL, a company of MMK himself, Natasha and Rishab have no locus to make a grievance with respect thereto; (xiv) attention",,,

was drawn to the report dated 18th October, 2015 of the retired Judge of this Court appointed as Observer as aforesaid, to the effect that there were",,,

rival camps amongst the higher staff of the PHPL with lack of cooperation and to two photographs of MMK with Kumkum and Vinay and their,,

family members to contend that he had started responding and was on the mend and expressed happiness in his surrounding; (xv) attention was invited,,

to the report dated 29th August, 2016 of the retired Judge of this Court appointed as Observer aforesaid with respect to the visit to MMK at A-4/3",,,

Vasant Vihar, New Delhi on 27th August, 2006 to know about his health and conditions of living and reporting that MMK was looked after by his two",,,

sisters and servants provided by the company and that the flat which he was exclusively occupying was a four bed room top floor flat with a lift and,,

found to be well maintained and furnished and quite clean and that MMK was neither able to talk nor in a position to respond even by gesture and,,

needed constant care which was being provided by the servants under guidance of sisters of MMK who occasionally visit him; (xvi) that MMK,,

suffered a stroke in July, 2013 and cannot be made to live in an inimical house; (xvii) that recovery of MMK is possible only in familiar surrounding",,,

and if displaced from the property where he has been living for last five and a half years, is likely to deteriorate; (xviii) that both, Kumkum and Vinay",,,

are financially well off in their matrimonial homes and have no greed for the wealth of their brother MMK and belong to respectable families; (xix),,,

that Kumkum and Vinay have been submitting regular account of expenses being incurred by them for taking care of MMK; (xx) that the legal fees,,

of Rs.80 lacs was in one year only and in other years, the legal expenses have been in the range of Rs.25 to Rs.30 lacs per year; (xxi) that there are a",,,

lot of unpaid lawyers bills also; (xxii) that no complaint of defalcation in the accounts regularly submitted by Kumkum and Vinay has ever been made;,,

(xxiii) that similarly no complaint of any deficiency in medical / health facility for MMK has ever been made by Natasha or Rishab or any other,,

person; (xxiv) that the care of MMK cannot be handed over to a new team, as is suggested; (xxv) reliance is placed on Meenu Seth Vs. Binu",,,

Seth AIR 2018 Del 54, holding that under Section 54(3) of the Mental Health Act, 1987 only a suitable person could be appointed as Manager of",,,

property and the appellant therein was not a suitable person because had filed divorce proceedings alleging acts of cruelty against the subject person,,

and because there was one other civil litigation initiated by the appellant therein against the subject person therein and which showed that the,,

endeavour was to take control of the properties; (xxvi) that proceedings filed by MMK for declaring his marriage with Natasha to be a nullity, if",,,

decided against the Natasha, Natasha will not be left with any claim under the Memorandum of Family Settlement dated 16th October, 1995; (xxvii)",,,

attention is drawn to the extract of Board Meeting of the PHPL on 6th August, 2015 to contend that Rishab had attempted to override the orders of",,,

the Court;attention is also invited to the letter dated 10th August, 2015 of the PHPL to ICICI Bank Ltd. signed by Rishab as Director, to contend that",,,

Rishab was misrepresenting himself to be the Director; (xxviii) attention is invited to the certificate dated 9th December, 2013 of SGRH with respect",,,

to MMK, opining that "such patient recovers much faster in familiar surrounding like their own home"; (xxix) that it is therefore incumbent that",,,

the present state should continue and be not disturbed; (xxx) that as per the admitted Will of MMK, Natasha has no right to reside in property no.15A",,,

Amrita Shergill Marg, New Delhi; (xxxi) Natasha cannot take benefit of residing in the property without performing her obligations as wife; (xxxii)",,,

that the admitted Will of MMK in any case has not taken effect; (xxxiii) that the Will rather shows that MMK had no trust in Rishab till he attained,,

the age of 30 years; and, (xxxiv) that Kumkum and Vinay, as sisters of MMK, are only interested in his well being and not interested in his business.",,,

38. The senior counsel for Natasha and Rishab, in rejoinder contended that (a) though Kumkum is living in a 800 sq. yds. house in Vasant Vihar but",,,

did not keep MMK in her own house and rather took the top floor of another house on rent, where MMK is housed and is being looked after by",,,

servants and not by his sisters; (b) compilation of documents was handed over to show that about Rs.80 lacs per year is being spent by Kumkum and,,

Vinay in litigation; Rs.25 lacs was spent in three months alone of the year 2018; (c) as compared therewith, the medical expenses of MMK are only",,,

Rs.5 lacs, showing the unproportionate amount being drayed in litigation; (d) though MMK is living on one floor only but excessive charges are being",,,

claimed towards electricity thereof; (e) Natasha has rights in property no.15A, Amrita Shergill Marg, New Delhi under the Memorandum of Family",,,

Settlement dated 16th October, 1995,irrespective of being the wife of MMK; (f) the Mental Healthcare Act, 2017 which has repealed the Mental",,,

Health Act, 1987, in Section 2(1)(s) thereof has an exhaustive definition of mental illness and has removed the concept of guardian of property;",,,

(g) Suchita Srivastava supra related to decision with regard to termination of pregnancy of a mentally retarded person and has no application; (h),,,

even otherwise, the views of MMK till he suffered brain stroke on 29th July, 2013, are reflected in his undisputed Will which provides for his entire",,,

estate going to Rishab without any portion of his property or company going to Kumkum or Vinay except for an amount of Rs.10 crores each; this,,

was despite the fact that MMK was in litigation with his wife Natasha at the time of making of the Will; (i) the order dated 6th February, 2013 in",,,

CM(M) No.1019/2010 filed by MMK seeking modification of the order of Rishabâ s maintenance also records that during the hearing, MMK had",,,

shown willingness to bear all legitimate expenses of Rishab including his school fee, tuition fee, training camps and any other expenses; (j) it is only",,,

Kumkum and Vinay who oppose this maintenance and with respect to which opposition, it was observed in the order dated 9th May, 2006 in CS(OS)",,,

No.1321/2006 and CS(OS) No.1453/2006 that it could not be said that MMK had intent of disowning his own son or denying him support or depriving,,

him of his wealth upon the son turning major and the stand taken by Kumkum and Vinay as guardian of MMK was not reasonable; (k) all litigations,,

instituted by Rishab against MMK were instituted by Natasha during his minority; (l) Kumkum and Vinay have been litigating using MMKâ s money",,,

to prevent Rishab from having a say in the PHPL; (m) Rishab, on attaining majority has withdrawn one of the suits filed on his behalf during his",,,

minority; (n) Kumkum and Vinay have been wanting lumpsum amounts instead of actual expenses incurred and have even asked for a new car,,

although two cars of PHPL have been provided for MMK; (o) Kumkum and Vinay have also not been safeguarding the income tax affairs of MMK,,

and for which steps have been taken by Rishab; (p) of the four bed rooms stated to be in the flat in occupation of MMK, three are occupied by",,,

servants and are unfurnished; (q) the medical records of SGRH also show that MMK was got discharged on relatives risk under the signatures of the,,

servant; (r) exorbitant rent of Rs.2 lacs per month is being paid for the second floor flat in occupation of MMK, when similar flats are available at a",,,

rent of Rs.70,000/- per month; (s) though the Observer appointed by this Court has reported that MMK is being taken care of by two servants only",,,

Kumkum and Vinay are charging Rs.2 lacs per month towards salary of 17 servants; (t) the salary of the two drivers provided to MMK is being borne,,

by the PHPL; (u) the rent of the flat in occupation of MMK is being paid to the son of Kumkum; (v) the sum of Rs.2 crores per annum was agreed,,

bona fide but is found to have been not applied for the benefit of MMK; (w) Natasha and Rishab have already filed applications in this regard; (x),,,

Rishab proposes that MMK be put incharge of a senior doctor of a reputed hospital and be looked after by specialized home care nurses and,,

attendants including two male attendants and a twenty four hours nurse from any reputed hospital with the concerned doctor regularly checking on the,,

health of MMK;(y) with respect to the PHPL, it is proposed that Rishab be inducted as Director therein and head hunting company be hired to search",,,

for other professional Directors to be appointed thereof and such Director may be selected in consultation with a senior counsel of this Court; (z) on,,

the one hand Rishab is presently not doing anything and on the other hand the PHPL is suffering losses; (aa) the losses suffered by PHPL also show,,

that the present arrangement is not working; (bb) what is suggested will ensure that the huge expenses being incurred from the coffers of MMK are,,

stopped; (cc) shifting of MMK to property no.15A, Amrita Shergill Marg, New Delhi will also ensure that outflow towards rent is stopped; (dd)",,,

CCTVs can be installed to record all movements in and around MMK, with footage thereof being accessible to Kumkum and Vinay to satisfy them of",,,

his well being; (ee) even if the marriage of Natasha with MMK were to be declared a nullity, the same would have no effect on the Will of MMK in",,,

favour of Rishab; (ff) this Court, under Order XXXII Rules 9 and 10 of the CPC, exercises parens patriae jurisdiction; and, (gg) reliance was placed",,,

on *Marggarate Maria Pulparampil Nee Feldman Vs. Dr. Chacko Pulparampil* AIR 1970 Ker 1 (FB),,,

39. The counsel for Kumkum and Vinay, in his further arguments contended that (i) there is no ground for removal of Kumkum and Vinay as guardian",,,

of MMK inasmuch as there is no change and the condition of MMK remains the same; (ii) Mental Healthcare Act, 2017 has no application per",,,

Section 126(2)(f) thereof; (iii) reliance is placed on Indira Vs. K.P.V. Menon (2010) SCC OnLine Ker 4978 (DB) and Amit Toppo Vs. None (2011),,,

SCC OnLine Ori 174 ;(iv) Rishab has not offered to withdraw the partition suit; (v) similarly Natasha has also not offered to withdraw the suits filed,,

by her; (vi) it is proposed that all litigations be ordered to be kept in abeyance and living expenses of MMK be reduced from Rs.2 crores per annum to,,

at about Rs.50 lacs to Rs.60 lacs and MMK be allowed to continue as he has been residing, as the said arrangement has worked well for him till now; ",,,

(vii) MMK is close to his sisters and the love and affection of the sisters is working as therapy for him; (viii) Kumkum and Vinay won't have access,,

to property no.15A, Amrita Shergill Marg, New Delhi; (ix) the interest of Natasha and Rishab are intertwined; (x) Kumkum and Vinay do not feel",,,

secure at property no.15A, Amrita Shergill Marg, New Delhi; (xi) there is a huge trust deficit; (xii) arrangement be made for protection of the estate",,,

of MMK and the Observer presently appointed to continue overseeing; (xiii) no full control of MMK can be given to Rishab; (xiv) approximately,,

Rs.12 lacs to 15 lacs is being expended by MMK per month and accounts thereof have been filed from time to time and scrutinized; (xv) all litigations,,

can be put to a standstill; (xvi) Kumkum and Vinay continue to incur expenses irrespective whether the monies as per common order are released or,,

not; and, (xvii) Rishab can be a Director of PHPL and the other Director can be a neutral person.",,,

40. The senior counsel for Joginder informed that an application has been filed in CS(OS) No.1321/2006 for freehold conversion of leasehold rights in,,

the land underneath properties no.15 and 15A, Amrita Shergill Marg, New Delhi.",,,

41. As would be evident from above, at the end of a marathon hearing, there is consensus qua putting the litigation to an end, with the only difference",,,

being that the counsel for the Kumkum and Vinay personally and as guardian ad litem of MMK suggesting that the litigation be kept in abeyance,,

rather than being ended.,,,

42. In Shipping Corporation of India Ltd. Vs. Machado Brothers (2004) 11 SCC 168, Guru Gobind Singh Indraprastha University Vs .Dr.",,

Smit Rajput 2015 SCC OnLine Del 9130 (DB), Pushpawati Vs. Narain Prasad Gupta 2013 SCC OnLine Del 4750, Varinder Sahni Vs. Pratap",,

K. Kaula 2013 SCC OnLine Del 765 and State Bank of India Vs. State Bank of India, Schedule Castes/Tribes Employees Welfare Association",,

2011 SCC OnLine Mad 313 (DB), it has been held that cause of action with which a litigation is commenced, if it is found to have ceased to exist, the",,

litigation should not be permitted to continue thereafter and an immediate stop should be put thereto. It was held that it is the duty of the Court to take",,

such action as is necessary in the interest of justice, which include disposing of infructuous litigation. It was further held that continuation of a suit",,

which has become infructuous by disappearance of cause of action would amount to an abuse of the process of the Court and interest of justice",,

requires that such suit should be disposed of",,

43. Since July, 2013 when MMK suffered a stroke and owing whereunto according to all parties concerned he is unable to decide for himself, in the last",,

over six years there has been no improvement in his condition and it is not the case of either of the parties that there is likelihood in near future of any",,

improvement. It is thus not deemed necessary to keep the present as well as other litigations pending by adjourning the same sine die or by keeping",,

the same in abeyance. The possibility of MMK in future reverting to his pre July, 2013 state and desirous of continuing the litigations can be addressed",,

by, while disposing of the litigations, permitting the parties to revive some of the litigations.",,

44. Else, it is felt that in view of the present mental state of mind of MMK and as long as the same continues and in view of the offer of Natasha and",,

Rishab, the cause of action for the litigations have disappeared.",,

45. It is accordingly ordered:",,

A. CS(OS) No.1321/2006 is dismissed as withdrawn with liberty to Natasha to sue afresh if a fresh cause of action arises.,,

B. CS(OS) No.1435/2006 is dismissed as withdrawn with liberty to Rishab to sue afresh if cause of action arises.,,

C. There is no need for modification of the order dated 25th April, 2014 disposing of CS(OS) No.1137/2014 and the applications filed therefor are also",,

disposed of.,,

D. CS(OS) No.2161/2015 is disposed of in terms of the order hereinbelow, with liberty to the parties to from time to time apply for modification of the",,,

order passed hereinbelow and for further directions.,,

E. The proceedings initiated by MMK for declaration of nullity of his marriage with Natasha be withdrawn by Kumkum and Vinay with liberty to,,

MMK to revive the same in the event of his mental condition being restored to pre July, 2013 state.",,,

F. The criminal complaint of offences under Sections 494 and 495 of the Indian Penal Code, 1860 against Natasha be withdrawn with liberty to MMK",,,

to file a fresh complaint in future if cause of action accrues.,,

G. The criminal complaint filed by MMK against Natasha and others of offence under Section 448 of the IPC, be also withdrawn by Kumkum and",,,

Vinay.,,

H. Natasha to withdraw CM(M) No.1219/2010 preferred by her against the order of dismissal of her application for maintenance.,,

I. Natasha to withdraw criminal complaint filed by her with respect to transfer of shares from various charitable trusts to MMK.,,

J. Natasha to withdraw the SLP(Civil) No.23004/2014 preferred by her against the order dated 28th March, 2014 in Execution Petition No.30/2007.",,,

K. Rishab to withdraw the case filed by him under the Mental Health Act for appointment of guardian of MMK.,,

L. Rishab as guardian ad litem of MMK to pursue W.P.(C) No.11907/2016.,,

M. Kumkum to withdraw the criminal complaint filed by her against Natasha and her servants of the offence of breaking of cameras and trespass into,,

portions allocated to MMK.,,

N. Kumkum to withdraw the proceedings initiated by her against Rishab for forging of Board Resolution of the PHPL.,,

O. Rishab to take decision in consultation with the Observer appointed by this Court qua the stand in the appeal pending before the National Company,,

Law Tribunal (NCLT), in the best interest of MMK and in the best interest of rights in favour of MMK and / or MMK and Natasha whatsoever it",,,

may be, in property no.15A, Amrita Shergill Marg, New Delhi in terms of Memorandum of Family Settlement dated 16th October, 1995.",,,

P. IA No.21637/2015 filed by the heirs of Joginder in CS(OS) No.1321/2006 for conversion of leasehold rights in the land underneath property no.15,,

and 15A, Amrita Shergill Marg, New Delhi into freehold is disposed of, by directing Rishab to, with the consent in writing of the Observer, take a",,,

decision in this respect in the best interest of MMK and / or rights of MMK and / or of MMK and Natasha in property no.15A, Amrita Shergill Marg",,,

New Delhi under the Memorandum of Family Settlement dated 16th October, 1995. In the event of the decision being for freehold conversion, Rishab",,,

is authorised to sign/execute/present for registration, all documents/deeds in this regard, on behalf of MMK including on behalf of MMK as",,,

shareholder/director of JKPL.,,,

46. I next take up the arrangement for future living and care of MMK. Having heard the counsels, I am of the view that:",,,

(i) At present it is in the best interest of MMK to continue living as he has been living for the past sometime and for the said status to continue. I have,,

however met Kumkum and Rishab in Chamber and counseled them to independently of animosity between Natasha on the one hand and Kumkum,,

and Vinay on the other hand, build a relationship in the best interest of MMK. It is not in dispute that Rishab is the son of brother of Kumkum and",,,

Vinay and there is no reason why Rishab, now having attained majority, should not make all possible attempts to forge a relationship anew with his",,,

paternal aunts and their families, forgetting the past acrimony between his mother Natasha and his paternal aunts. A cordial relationship between",,,

Rishab, Kumkum and Vinay will be the best therapy and medicine for MMK and I sincerely hope that all of them, claiming to be concerned of the well",,,

being of MMK, forgetting the past will make attempts in that direction.",,,

(ii) Rishab shall have unlimited access to MMK and all decision regarding best care of MMK shall be taken jointly by Rishab, Kumkum and Vinay",,,

without squabbling about annas and paise.,,,

(iii) As far as the living expenses of MMK are concerned, the counsel for Kumkum and Vinay on his own has offered reduction thereof from the",,,

present Rs.2 crores per annum to Rs.1.40 crores or Rs.1.50 crores per annum, since the litigation expenses are coming to an end. Rishab has",,,

however raised several questions with respect to the said expenses and which can broadly be categorized as (a) excessive rent of Rs.2 lacs per,,

month, (b) excessive electricity charges, and, (c) excessive deployment of servants.",,

(iv) Since MMK requires constant looking after, provision for residence for his caretaker in the house occupied by him cannot be ignored. Though",,,

MMK may occupy one room only but it is necessary to have accommodation for at least two caretakers along with him.,,,

(v) In the accommodation of MMK, there should also be a spare guest bed room for Rishab to spend time with MMK if so desires. At the same time",,,

there has to be sufficient space for visitors to MMK. Therefrom, it appears that the minimum accommodation required is of two bed rooms with living",,,

room, either with a servant quarter or of three bed rooms.",,

(vi) Because the present accommodation occupied by MMK is owned by son of Kumkum, the reasonableness of the rent being paid therefor becomes",,,

an issue. Similarly, it appears that as many as 17 servants are not required by MMK.",,

(vii) Since as of now there is no report of any deterioration in the health or condition of MMK, there is no need to change his caregivers.",,

(viii) Rishab to place before the Observer appointed by this Court proposals for renting of accommodation as aforesaid for MMK in the vicinity of the",,,

accommodation presently in his occupation and the Observer on the basis thereof is requested to assess whether the rent being paid on behalf of",,,

MMK to the son of Kumkum is higher than the prevailing rents and if so, either the rent being paid on behalf of MMK be re-negotiated or MMK be",,,

shifted to another suitable accommodation.,,,

(ix) The Observer is also requested to, in presence of Rishab, Kumkum and Vinay, understand the need for number of servants/caregivers for MMK",,,

and salary thereof and fix the appropriate number of servants/caregivers and their salary. The said salary be disbursed directly by PHPL through",,,

Rishab, to the servants/caregivers and Rishab is made personally responsible for timely payment thereof.",,

(x) The task having been entrusted to an Observer of the Court, the findings of the Observer in this regard shall bind the parties and the liberty",,,

hereinafter granted to the parties to apply to this Court shall not extend to such matters.,,,

(xi) The electricity bills for the accommodation in occupation of MMK shall be

submitted to PHPL and be paid directly by PHPL, ensuring that there",,
is no disconnection of electric supply.,,

(xii) One car equivalent to Ford / Octavia Superb, in a good running condition, shall continue to be provided by PHPL for use of MMK along with a",,
driver. If the vehicle has any breakdown incapable of rectification in a day or two, causing inconvenience to MMK, the said car shall be replaced.",,

Similarly, on the day when the driver so assigned to MMK is on leave or otherwise not available, alternate driver shall be provided.",,

(xiii) The rent as may be assessed by the Observer shall be re-considered every three years and the requirement of number of caregivers shall be re-,,
considered annually by the Observer, save when change of circumstances requires immediate reconsideration thereof.",,

(xiv) All the expenses so determined by the Observer shall be defrayed directly by the PHPL and Rishab is personally bound down to ensure timely,,
payment/release thereof, to avoid any disruption in the care to MMK.",,

(xv) A sum of Rs.1,50,000/- per month be however disbursed by the PHPL to Kumkum for kitchen and daily need items for MMK. The said amount",,
be increased annually by 25% of last paid amount.,,

(xvi) In addition, the amount required to be spent for comfort or any other requirements of MMK be discussed by Rishab with Kumkum and be",,
defrayed by PHPL and in the event of their not arriving at a consensus, decision of Observer shall bind the parties.",,

(xvii) In the scheme devised above, an attempt has been made to achieve disbursement directly by PHPL through Rishab, of all the regular expenses",,

for upkeep/comfort/living of MMK, to avoid suspicions on part of Natasha and Rishab of, the entire money directed to be paid under the earlier order",,

being not utilized for the purpose. Only the quantum of kitchen and daily need items has been fixed and to be paid to Kumkum, who today is living",,

closest to where MMK is living. It is expected that Rishab would not like to see his father suffering in any way for lack of funds/money. Besides,,

causing misery to MMK and to those concerned about his welfare, the same will also reflect adversely on Rishab as son. It is expected that Rishab",,

more than Kumkum and Vinay, will be keen to ensure that MMK continues to enjoy the living standards as he has been enjoying in the past, specially",,

when he was himself carrying on business. The Court has reposed faith in

Rishab's goodness for his father, who today is helpless, and hopes that",,,

Rishab will not give occasion for the Court to in future, find, Rishab having failed his father.",,,

47. That brings me to the business of MMK:,,

(a) The counsel for the Kumkum and Vinay has fairly consented to Rishab becoming a Director in the PHPL. As far as the other Director/s of PHPL,,

is concerned, Mr. Arun Kathpalia, Senior Counsel has graciously consented to,as nominee of the Court, assist in identifying the mode of appointment",,,

and selection thereof, considering the nature of business of PHPL and its requirement. Steps in that regard be taken by Rishab with the consent in",,,

writing of Mr. Arun Kathpalia, Senior Advocate.",,,

(b) Mr. Arun Kathpalia, Senior Advocate is also requested to from time to time, assess the need if any of change of board members of PHPL and if",,,

change in management is deemed necessary to also advise Rishab qua the same and Rishab to, with the consent of Mr. Arun Kathpalia, effect such",,,

change.,,,

(c) Rishab, along with other directors of PHPL, to conduct the affairs of PHPL and manage the business of PHPL, in the best interest of its",,,

shareholders and with liabilities as guardian appointed by this Court of interest of MMK in PHPL.,,,

(d) The fixed deposits of PHPL / MMK to be continued and renewed to yield the maximum returns, to be reinvested, if not required to meet expenses",,,

of MMK in terms of above and no monies be withdrawn therefrom for any other purpose. The other restraints in force in these proceedings with",,,

respect thereto, to continue. \",,,

(e) The monies in the mutual funds be reinvested again in the best interest of MMK and to yield maximum returns and Rishab is again made liable as,,

guardian appointed by this Court of MMK therefor. The restraints with respect thereto under orders of the Court, to continue.",,,

(f) All other decisions with respect to business and financial affairs of PHPL be taken by Rishab with consent in writing of Mr. Arun Kathpalia",,,

Senior Advocate with Rishab being liable therefor as Court appointed guardian of MMK for the said purpose.,,,

(g) Mr. Arun Kathpalia, Senior Advocate to fix his own honorarium, depending on the contribution required and payable to him out of monies of",,,

PHPL.,,

48. This Court has for the time being not appointed anyone as guardian of person of MMK and continues to be *parens patriae* of MMK and has only,,

nominated Rishab to do the assigned tasks for benefit of MMK, on behalf of the Court and Rishab shall thus remain answerable to the Court. It is",,,

expected that Rishab, over a period of time, shall prove worthy of being entrusted with guardianship of his father.",,,

49. All the suits/proceedings are disposed of in terms of above.,,