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2026:DHC:10252

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

% *Judgment reserved on: 16.09.2026*
Judgment pronounced on: 19.11.2026
Judgment uploaded on: 19.11.2026

CNR No. DLHC010136662026

\+ **W.P.(C) 4401/2026 & CM APPL. 63170/2026**

[redacted] & ANR. .....Petitioners

Through: Ms. Sheenam Chhabra, Ms. Anjani Chhabra and Ms. Nibha Gupta, Advocates

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Puneet Yadav, SPC with Mr. Kamaldeep, GP and with SI Satish Dahiya, Delhi Police.
Mr. Piyush Beriwal, Ms. Ruchita Srivastava and Mr. Sparsh Jain, Advocates for R-1 to R-5.
Mr. V.N. Raghupathy, Ms. Mythili S., Ms. P. Chandni, Mr. Sumit Bhargava and Ms. Chandni Godiyal, Advocates for R-6/CARA.

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J

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CM APPL. 63170/2026

1. By way of the present application, the petitioners seek permission to amend the prayer clause of the captioned writ petition.

2. It is stated that inadvertently, the prayer clause (1) in the writ petitions mentions respondent no. 5, which should have been respondent no. 6, and similarly, prayer clause (2) mentions respondent no. 4, which should have been respondent no. 4 and 5.

3. Considering the averments in the application, the present application is allowed. Let the amended writ petition be taken on record.

4. Application is disposed of.

W.P.(C) 4401/2026

5. By way of the present writ petition filed under Articles 226 and 227 of the Constitution of India, the petitioners seek directions to the Central Adoption Resource Authority [hereafter '**CARA**'] to issue a No Objection Certificate [hereafter '**NOC**'] for relocation of petitioner no. 2, a minor child adopted under the Hindu Adoptions and Maintenance Act, 1956 [hereafter '**HAMA**'], to Australia, and directions to the passport authorities to issue a passport to her. The prayer clause, as it stands in the amended writ petition, reads as under:

> "1. To pass an appropriate writ / order / directions to Respondent No.6 to issue requisite NOC for the already concluded Adoption.
>
> 2. To pass an appropriate writ / order / directions to

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> Respondent No.4 & 5 to immediately issue the Passport of the Petitioner No.2.
>
> 3. Any other writ / order / direction as this Hon'ble High Court may deem fit, in favor of Petitioners, in the sheer interest of justice."

6. Respondent no. 1 (Union of India), respondent no. 4 (Ministry of External Affairs) and respondent no. 5 (Regional Passport Officer, Amritsar, Punjab) have raised a preliminary objection to the maintainability of the present petition on the ground that this Court lacks territorial jurisdiction to entertain the same. *Vide* order dated 04.08.2026, the matter was listed for arguments on the said point, and after hearing the parties, the judgment was reserved on 16.09.2026. The present judgment, therefore, confines itself to the question of territorial jurisdiction.

Factual Background

7. Briefly stated, the facts of the case are that petitioner no. 1, Smt. [redacted], and her husband, [redacted] [hereafter '**adoptive parents**'], are persons of Indian origin, who are presently citizens of Australia and hold Overseas Citizen of India (**OCI**) cards. Petitioner no. 2, [redacted] was born on 23.12.2019 at Amritsar, Punjab, to [redacted] an [redacted] [hereafter '**biological parents**'], the adoptive mother being the first cousin of the biological father. On 18.10.2021, the ceremony of adoption was performed as per Sikh rites and customs, and thereafter, a Deed of Adoption under the HAMA was registered

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in the office of the Sub-Registrar, Amritsar on 18.11.2021. On the basis thereof, the Aadhaar card of petitioner no. 2 was updated, and the District Registrar (Births and Deaths), Amritsar issued a fresh birth certificate reflecting the names of the adoptive parents. The adoptive parents also instituted a civil suit, i.e. CS/547/2023, in which the learned Civil Judge (Junior Division), Amritsar, *vide* judgment and decree dated 02.01.2024, declared petitioner no. 2 to be the adopted daughter of the adoptive parents on the basis of the registered adoption deed.

8. On 25.01.2022, an online application for issuance of a passport to petitioner no. 2 was submitted *vide* ARN No. 22-0001117458, with an appointment at the Passport Seva Kendra, Amritsar on 28.01.2022. According to the petitioners, the passport authorities declined to proceed with the application in the absence of an NOC from CARA, i.e. respondent no. 6. The petitioners, thereafter, approached CARA, which, *vide* communication dated 10.08.2022, issued from its office at New Delhi, called upon the adoptive father to follow the procedure prescribed under Regulation 22C of the Adoption (Amendment) Regulations, 2021, which requires sponsorship of the case by the competent authority of the receiving country. The petitioners state that the authorities in Australia declined to initiate the said process and advised them to pursue the immigration route instead, for which the NOC of CARA was itself required. On 13.03.2026, the adoptive parents submitted a representation addressed to the Director, CARA, New Delhi,

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requesting that their case be placed before the Relaxation Committee of CARA and the requisite NOC be issued. No response is stated to have been received thereto. Aggrieved, the petitioners have approached this Court.

9. Notice in the present petition was issued on 06.04.2026. Respondent no. 6/CARA has filed its counter affidavit, opposing the petition on merits, wherein it is stated that CARA is legally precluded from issuing the NOC in the absence of the requisite approvals from the authorities of the receiving country. Respondent nos. 1, 4 and 5 have filed a reply through the officiating Regional Passport Officer, Amritsar, raising, *inter alia*, the objection of territorial jurisdiction, and stating that no passport application of petitioner no. 2 is presently pending before the Regional Passport Office, Amritsar. A rejoinder has been filed by the petitioners. Respondent nos. 1, 4 and 5 have also filed a compilation of judgments in support of their objection on the maintainability of the petition, and the petitioners have filed specific written submissions in reply thereto.

Submissions before the Court

10. The learned counsel appearing for respondent nos. 1, 4 and 5 argues that the present petition is not maintainable before this Court for want of territorial jurisdiction. It is contended that all material events, including the execution of the adoption deed, the updation of birth records, the submission of the passport application *vide* ARN No. 22-0001117458 and the alleged dealings with the passport

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authorities, took place at Amritsar, Punjab. It is further argued that respondent no. 5, i.e. the Regional Passport Office, Amritsar, is also situated outside the territorial jurisdiction of this Court, and the mere impleadment of the Union of India or of Ministries situated at New Delhi does not confer territorial jurisdiction upon this Court, in the absence of any real or substantive cause of action arising within Delhi. It is submitted that the primary grievance of the petitioners pertains to the processing of the passport application by authorities situated at Amritsar.

11. In support of the objection, reliance is placed upon the decisions in ***Oil and Natural Gas Commission v. Utpal Kumar Basu***: *(1994) 4 SCC 711*; ***Kusum Ingots & Alloys Ltd. v. Union of India***: *(2004) 6 SCC 254*; ***Alchemist Ltd. v. State Bank of Sikkim***: *(2007) 11 SCC 335*; ***Chintan Agrawal v. Union of India*** (*2026 SCC OnLine Del 5028*); ***Dr. Neha Chandra v. Union of India***: *2024 SCC OnLine Del 7083*; and ***Oil Country Tubular Ltd. v. Oil and Natural Gas Corporation Ltd.***: *1996 SCC OnLine AP 510*, to contend that territorial jurisdiction is determined by the place where the material and integral part of the cause of action arises, and not by the location of the offices of the Central Government; and that even if a small part of the cause of action arises within its territory, a High Court may decline to entertain the petition, if another High Court, having the closest nexus with the dispute, is the more appropriate forum. It is, thus, prayed that the present petition be dismissed as not maintainable.

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12. On the other hand, the learned counsel appearing for the petitioners argues that the objection as to territorial jurisdiction is wholly misconceived. It is contended that the principal relief in the present petition is sought against CARA, which is a statutory body having its office at R.K. Puram, New Delhi, and the refusal of CARA to issue the NOC constitutes the integral and material part of the cause of action. It is submitted that the petitioners had exchanged communications with CARA at New Delhi for issuance of the NOC, and the representation dated 13.03.2026 also remains pending with CARA. It is further argued that the passport of petitioner no. 2 has not been processed only on account of the absence of the NOC of CARA, and therefore, the relief qua the passport authorities is itself dependent upon the NOC to be issued by CARA from New Delhi. It is submitted that, applying the '*but-for*' test, had CARA issued the NOC, there would have been no occasion for the passport authorities to withhold the passport, and no occasion for the petitioners to approach this Court. It is also contended that the execution of the adoption deed and the updation of the birth records at Amritsar are merely background facts, which do not warrant any further action, and none of the authorities concerned therewith has been impleaded in the present petition.

13. In support of the above contentions, reliance is placed on the decisions of the Full Bench of this Court in ***Sterling Agro Industries Ltd. v. Union of India***: *ILR (2011) VI Delhi 729*; the Division Bench of this Court in ***Charnjit Singh Aulakh v. Director General, CISF***:

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2017:DHC:685-DB; and the recent decision of the Hon'ble Supreme Court in ***Baksish Ahmad v. Union of India***: *2026 INSC 630*, to contend that where the authority against whom the writ is sought is situated within the territorial limits of this Court, the doctrine of *forum conveniens* cannot be invoked to deny relief. Reliance is also placed on the decision of this Court in ***Kokkanti Venkata Maheswara Reddy v. Google LLC***: *W.P.(C) 8465/2026*, decided on 02.07.2026. It is argued that the decision in ***Chintan Agrawal v. Union of India*** (*supra*), relied upon by the respondents, is distinguishable, since in that case, the entire cause of action had arisen in the State of Uttar Pradesh, and the only connection with Delhi was the location of the office of the Ministry of External Affairs.

14. It is further argued that CARA, the principal contesting respondent, has not raised any objection as to territorial jurisdiction, and that the objection raised by respondent nos. 1, 4 and 5 is belated, since they had entered appearance on the very first date of hearing. It is also submitted that Coordinate Benches of this Court have entertained identical petitions against CARA filed by adoptive parents whose adoption deeds were executed in other States, and that relegating the petitioners to another High Court at this stage would cause grave prejudice to the minor child. It is also contended that the reply filed on behalf of respondent nos. 1, 4 and 5 is itself not maintainable, as the deponent has not placed on record his authority to depose on behalf of the said respondents.

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15. This Court has **heard** arguments addressed on behalf of the parties on the question of territorial jurisdiction, and has perused the material available on record.

Analysis *&* Findings

16. The issue which arises for consideration before this Court is whether this Court has the territorial jurisdiction to entertain the present petition, and if so, whether it ought to decline to exercise the same by invoking the doctrine of *forum conveniens*.

17. To appreciate the objection raised by respondent nos. 1, 4 and 5, it would be apposite to take note of clauses (1) and (2) of Article 226 of the Constitution of India, which read as under:

> "**226**. **Power of High Courts to issue certain writs**.— (1) Notwithstanding anything in article 32 every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.
>
> (2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories."

18. Clause (2) of Article 226, which was originally inserted as clause (1A) by the Constitution (Fifteenth Amendment) Act, 1963, was intended to enlarge the territorial reach of the High Courts, so as

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to enable a High Court within whose territories the cause of action, wholly or in part, arises, to issue writs even to a Government or authority whose seat is located outside its territories. The said clause, however, does not curtail the jurisdiction conferred by clause (1) upon the High Court within whose territories the person or authority concerned is located. Thus, a High Court can exercise its writ jurisdiction either where the person or authority against whom the writ is sought is located within its territories [clause (1)], or where the cause of action, wholly or in part, arises within its territories [clause (2)]. It is also settled that the question of territorial jurisdiction is to be decided on the basis of the averments made in the petition, the truth or otherwise thereof being immaterial. In ***Oil and Natural Gas Commission v. Utpal Kumar Basu*** (*supra*), the Hon'ble Supreme Court has held as under:

> "6. ...Therefore, in determining the objection of lack of territorial jurisdiction the court must take all the facts pleaded in support of the cause of action into consideration albeit without embarking upon an enquiry as to the correctness or otherwise of the said facts. In other words the question whether a High Court has territorial jurisdiction to entertain a writ petition must be answered on the basis of the averments made in the petition, the truth or otherwise whereof being immaterial. To put it differently, the question of territorial jurisdiction must be decided on the facts pleaded in the petition..."

19. The facts so pleaded must, however, constitute a material, essential or integral part of the cause of action, and not facts which are merely incidental. In ***Alchemist Ltd. v. State Bank of Sikkim*** (*supra*), the Hon'ble Supreme Court has observed as under:

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> "37. ...it is clear that for the purpose of deciding whether facts averred by the appellant-petitioner would or would not constitute a part of cause of action, one has to consider whether such fact constitutes a material, essential, or integral part of the cause of action. It is no doubt true that even if a small fraction of the cause of action arises within the jurisdiction of the court, the court would have territorial jurisdiction to entertain the suit/petition. Nevertheless it must be a "part of cause of action", nothing less than that."

20. Similarly, in ***State of Goa v. Summit Online Trade Solutions (P) Ltd.***: *(2023) 7 SCC 791*, the Hon'ble Supreme Court has explained the test to be applied for determining whether the facts pleaded constitute a part of the cause of action, in the following words:

> "17. Determination of the question as to whether the facts pleaded constitute a part of the cause of action, sufficient to attract clause (2) of Article 226 of the Constitution, would necessarily involve an exercise by the High Court to ascertain that the facts, as pleaded, constitute a material, essential or integral part of the cause of action. In so determining, it is the substance of the matter that is relevant. It, therefore, follows that the party invoking the writ jurisdiction has to disclose that the integral facts pleaded in support of the cause of action do constitute a cause empowering the High Court to decide the dispute and that, at least, a part of the cause of action to move the High Court arose within its jurisdiction. Such pleaded facts must have a nexus with the subject-matter of challenge based on which the prayer can be granted. Those facts which are not relevant or germane for grant of the prayer would not give rise to a cause of action conferring jurisdiction on the court. These are the guiding tests."

21. At the same time, the existence of jurisdiction is distinct from its exercise. In ***Kusum Ingots & Alloys Ltd. v. Union of India*** (*supra*), the Hon'ble Supreme Court has held as under:

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

22. The Full Bench of this Court in ***Sterling Agro Industries Ltd.*** (*supra*) has also held that even if a miniscule part of the cause of action arises within the jurisdiction of this Court, a writ petition would be maintainable before it, though the doctrine of *forum conveniens* and the nature of the cause of action are required to be scrutinised by the High Court depending upon the factual matrix of each case.

23. This Court further notes that respondent nos. 1, 4 and 5 have placed heavy reliance upon the decision of this Court in ***Chintan Agrawal v. Union of India*** (*supra*). In the said case, the petitioner had sought correction of his date of birth in his passport, and the impugned communication rejecting such request had been issued by the Regional Passport Office, Ghaziabad. The petitioner's birth certificate had also been issued and corrected by the competent authority at Agra, and the petitioner was himself a resident of the State of Uttar Pradesh. The only connection with Delhi which was pleaded was that the office of the Ministry of External Affairs was situated in Delhi, and that the Regional Passport Office functioned under its administrative control. In those circumstances, this Court had held as under:

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> "15. In the backdrop of the aforesaid principles, the mere fact that the office of the Ministry of External Affairs is situated in Delhi cannot, by itself, confer territorial jurisdiction upon this Court to entertain the present petition. The petitioner's birth certificate was issued and corrected by the competent authority in Agra, the passport was issued and renewed by the Regional Passport Office, Ghaziabad, and the impugned communication rejecting the petitioner's request for correction of his date of birth also emanated from the said office situated in Ghaziabad. Thus, the entire bundle of material facts giving rise to the present cause of action has arisen within the State of Uttar Pradesh."

24. The decision in ***Chintan Agrawal*** (*supra*) was, thus, rendered in a case where no authority located in Delhi had any role in the decision under challenge, and the relief sought was entirely against an authority situated outside Delhi. As would be discussed hereinafter, the factual position in the present case is materially different.

25. A reading of the writ petition as a whole, along with the documents annexed thereto, reveals that the substance of the grievance of the petitioners is the non-issuance of the NOC by CARA, which, according to them, is the sole impediment in the relocation of petitioner no. 2 to Australia. In this regard, the following facts, as pleaded and as borne out from the record, are relevant:

(a) CARA is a statutory body, having its office at R.K. Puram, New Delhi, and is the authority competent under Chapter VIII of the Adoption Regulations, 2022 to issue the NOC/support letter for relocation of a child adopted under

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HAMA to a foreign country.

(b) The communication dated 10.08.2022, by which the petitioners were called upon to follow the procedure under Regulation 22C of the Adoption (Amendment) Regulations, 2021, and which, according to the petitioners, is the genesis of the present grievance, was issued by CARA from New Delhi.

(c) The representation dated 13.03.2026, by which the petitioners had requested that their case be placed before the Relaxation Committee of CARA, was addressed to CARA at New Delhi, and has admittedly not been decided till date.

(d) CARA, in its counter affidavit filed before this Court, has taken a categorical stand that it is legally precluded from issuing the NOC in the absence of approvals from the receiving country – a decision which has, thus, been taken, and is being maintained, by CARA at New Delhi.

26. In the opinion of this Court, the aforesaid facts are material in nature, which constitute the foundation of the petitioners' claim. The principal relief sought in the petition is a writ of mandamus to CARA, an authority located within the territorial limits of this Court, and the decision of CARA, which has been challenged by the petitioner, has been taken at New Delhi; therefore, a material and integral part of the cause of action has arisen within the territorial jurisdiction of this Court, which clearly attracts clause (2) of Article 226 of the Constitution.

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27. Applying the test laid down in ***Summit Online Trade Solutions (P) Ltd.*** (*supra*), the facts pleaded by the petitioners with respect to CARA clearly have a direct nexus with the subject matter of the petition and with the prayer which can be granted, inasmuch as the principal relief sought is a direction to CARA itself to issue the NOC. These facts are, therefore, germane for the grant of the prayer.

28. The contention of respondent nos. 1, 4 and 5 that all the material events took place at Amritsar is also not of any help to them. The execution and registration of the adoption deed, the updation of the birth records and the decree of the civil court are not under challenge in the present petition. These facts merely form the background in which the petitioners have sought the NOC from CARA, and no relief has been sought against any of the authorities concerned therewith. It is also significant to note that the relief sought against respondent no. 5, i.e. the Regional Passport Office, Amritsar, is also consequential in nature. As per the case of the petitioners, the passport application of petitioner no. 2 could not be processed for want of the NOC of CARA. Respondent no. 5 itself has stated that no passport application of petitioner no. 2 is presently pending before it, and that a fresh application, if submitted, shall be processed in accordance with law. Thus, the grievance of the petitioners *qua* the passport is entirely dependent upon the issuance of the NOC by CARA, and the location of respondent no. 5 at Amritsar cannot take away the jurisdiction of this Court in respect of the principal relief sought against CARA.

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29. This Court also cannot lose sight of the fact that CARA, which is the principal contesting respondent and against whom the substantive relief is sought, has not raised any objection whatsoever with respect to the territorial jurisdiction of this Court, and has contested the petition on merits. The objection has been raised only by respondent nos. 1, 4 and 5, against whom only consequential relief has been sought. The decision in ***Chintan Agrawal*** (*supra*) is, therefore, clearly distinguishable on facts, and so is the decision in ***Dr. Neha Chandra*** (*supra*), wherein the material, essential and integral facts giving rise to the dispute had occurred outside Delhi. As regards the doctrine of *forum conveniens*, this Court is of the view that the present case is not one where this Court ought to decline to exercise its jurisdiction. The records pertaining to the petitioners' case are maintained by CARA at New Delhi, and CARA has been duly represented before this Court. It is also noted that Coordinate Benches of this Court have, in ***Jasleeniqbal Sidhu v. Union of India***: *W.P.(C) 3880/2025*, decided on 30.05.2025, and ***Karnika Khandelwal v. Union of India***: *W.P.(C) 13156/2025*, decided on 01.07.2026, entertained and decided petitions filed against CARA by adoptive parents whose adoption deeds had been executed in the States of Punjab and Rajasthan respectively. This Bench also has entertained and issued directions in a similar matter, being ***Rupinder [redacted] Sandhu & Anr. v. Union of India & Ors.:*** *W.P.(C) 3063/2026*, order dated 04.08.2026.

30. Apart from the aforesaid, it is also pertinent to note that the

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present petition has been pending since April 2026, and the pleadings are complete. The issue involves the relocation of a minor child, which, according to the petitioners, has not concluded for nearly five years. Relegating the petitioners to another forum at this stage would neither advance the cause of justice nor subserve the best interests of the child, which must remain a paramount consideration in matters of this nature.

31. Accordingly, in view of the foregoing discussion, the preliminary objection raised by respondent nos. 1, 4 and 5 regarding lack of territorial jurisdiction is rejected.

32. It is clarified that the observations made hereinabove are only for the purpose of deciding the objection as to territorial jurisdiction, and shall not be construed as an expression of opinion on the merits of the controversy. All rights and contentions of the parties on merits are kept open.

33. List the present petition for arguments, on merits, on 02.12.2026 before the Roster Bench, subject to orders of Hon'ble the Acting Chief Justice.

34. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

NOVEMBER 19, 2026/zp