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

+ MAT.APP. 65/2011 & CM 17165/2011

CHITRA @ JAYA RAJANI
Through

..... Appellant
Mr Jai Bansal, Adv. with
Inspector Veer Singh SHO and
SI Ratan Kumar P.S. Shalimar
Bagh

versus

NANAK RAM RAJANI
Through

..... Respondent

CORAM:
HON'BLE MR. JUSTICE KAILASH GAMBHIR

% **ORDER**
09.11.2011

On the last date, this Court gave directions to the SHO, PS Shalimar Bagh so as to know what steps were taken by the concerned police official on the missing complaint lodged by the Appellant on 10.07.2001 vide DD No.40B reporting missing of her husband. Pursuant to the said directions given by this Court, Status Report has been filed by Inspector Veer Singh, SHO PS Shalimar Bagh. A perusal of the said Status Report shows that

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Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

5

requisite steps were taken by the police to trace the husband of the Appellant but it ultimately failed to trace him.

In the present Appeal, the Appellant has challenged the order dated 4.9.2010 passed by the learned Family Court thereby dismissing the petition filed by the Appellant under Section 13(1) (vii) of the Hindu Marriage Act, 1955 seeking dissolution of her marriage with the respondent. The case set up by the Appellant in the petition was that she had married the respondent according to Hindu Rites and Ceremonies on 27.01.1999 and out of this wedlock no child was born. It is also the case of the Appellant that she had resided with her husband till 16.06.2001 at her matrimonial home and thereafter started residing separately from the parents of the respondent but with the respondent in a rented accommodation upto 16.06.2001. It is also the case of the Appellant that on 17.06.2001 she had received a telephonic call from the respondent informing her that he would be going to Jaipur for some official work and will return back within a day or two. Since the respondent did not return back, the Appellant had contacted the office of the respondent wherefrom she learnt that he had taken a leave of one week and in fact did not go to Jaipur. The Appellant thereafter contacted the friends and other relatives of the

respondent but could not come to know about his whereabouts. It was in such a situation that she lodged a missing report with the police on 10.07.2001, but the police also did not succeed to trace the husband of the appellant.

The Appellant has not resided with her husband for the last more than seven years, and due to this she had filed a divorce petition under Section 13(1) (vii) of the Hindu Marriage Act. The Respondent in the said petition was proceeded *ex parte* by the Family Court vide order dated 18.01.2010. The Appellant had led her evidence by way of an Affidavit but failed to adduce any other evidence to support her testimony to independently prove the exact circumstances which led to the missing of her husband and the outcome of the action taken by the police on the said missing report filed by the Appellant. Learned Family Court had dismissed the said petition filed by the Appellant only on the ground that the Appellant had not examined any police official to prove the said missing complaint lodged by her and also on account of the fact that the Appellant did not produce any independent witness to prove the missing of her husband. Now with the said Status Report placed on record by the police wherefrom it is manifestly clear that the HC Ashok Kumar, to whom the investigation was entrusted by

the SHO had made sincere efforts to trace the husband of the Appellant and necessary wireless messages were transmitted by the police at All India Level and even the police had issued 'hue and cry notice' informing the Missing Persons Squad but still the police failed to trace the husband of the Appellant. It is also the stand of the police in the status report that in the enquiry the mother of the missing person was also interrogated and during interrogation, she had handed over a letter written by the husband of the Appellant wherein the husband had explained the reasons for leaving the matrimonial home. Photocopy of the letter which was handed over by the mother of the husband of the Appellant has also been placed on record by the police alongwith the present status report.

Taking into consideration the facts and circumstances of the case, this Appeal deserves to be remanded back to the concerned Judge of the Family Court with directions to the Family Court to decide the case of the petitioner after taking into consideration the evidence of the police to be adduced by the petitioner in support of her case. Petitioner is also permitted to place on record any additional document, if she so wishes.

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Appellant is directed to appear before the concerned Court of Family Judge on 28.11.2011 and the learned Family Court shall decide the case of the Appellant as expeditiously as possible.



KAILASH GAMBHIR,J

NOVEMBER 09, 2011
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