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

+ **W.P.(C) No.4364/2013**

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Date of decision: 17th July, 2013

KUNDAN GHOSH Petitioner
Through : Md. Azam Ansari, Adv.

versus

UNION OF INDIA & ORS. Respondents
Through : Ms. Barkha Babbar, Adv.
Mr.Subhasish Bhowmick,
Adv. for Ms.Aliva Ghosh
(wife of petitioner)

CORAM:
HON'BLE MS. JUSTICE GITA MITTAL
HON'BLE MS. JUSTICE DEEPA SHARMA

GITA MITTAL, J. (Oral)

1. By way of this writ petition, the petitioner prays for stay of the movement order dated 12th March, 2013 whereby he stands posted to Barrackpore with effect from 24th June, 2013. The primary ground urged by the petitioner in support of his writ petition is that he has to attend the case which has been filed by his wife Smt. Aliva Ghosh in the Supreme Court of India which he states is listed on 22nd July, 2013.

2. In the hearing before us today, Mr. Subhasish Bhowmick, Advocate has appeared and informed that he represents the wife of

the petitioner - Smt. Aliva Ghosh, in T.P.(Civil)No.236/2013 in the Supreme Court of India. He submits that the petitioner's wife is a resident of Bharatpur and has been compelled to initiate the following cases against the petitioner.

(i) Maintenance case under Section 125 Cr.P.C.

(ii) Criminal case under Section 498A/325 IPC

3. It is contended that in retaliation, the petitioner has filed a divorce petition and another petition seeking custody of the only son of the party in Delhi. It has been contended that petitioner's wife is not employed and is a home maker and in these circumstances was compelled to file the above cases against the petitioner. In the above circumstances, she has also been compelled to defend the litigation in Delhi. He submits that given her circumstances, Ms.Aliva Ghosh has been constrained to seek transfer of the two cases filed by the petitioner at Delhi to Bhartpur by the transfer petition filed by her in the Supreme Court of India.

4. In the above circumstance, the petitioner's presence in Delhi only to contest the transfer petition may certainly not be essential. Even if it was, the petitioner can seek leave to attend the court hearing.

5. Learned counsel for the petitioner submits that his client is going to make a prayer for mediation. As and when such prayer is made and the same is considered favourably, the parties can undoubtedly take steps and appear before the learned mediator as may be directed by the court.

6. The writ petitioner has also assailed the transfer order dated 12th March, 2013 on the ground that he is entitled to normal tenure of five years at Barrackpore instead of three years restricted tenure posting. We are informed that the petitioner has made a representation dated 3rd May, 2013 to the respondents in this regard which is still pending.

7. In view of the above, a direction is issued to the respondents to consider the representation dated 3rd May, 2013 of the petitioner in accordance with the applicable statutory provisions and policies and pass orders thereon with eight weeks and communicate the same to the petitioner forthwith thereafter.

8. This writ petition is disposed of in the above terms.

9. Copy of this order be given dasti under the signatures of the court master of this court.

(GITA MITTAL)
JUDGE

(DEEPA SHARMA)
JUDGE

JULY 17, 2013
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