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

+ MAT.APP.(F.C.) 110/2014 and C.M.No.15373/2014

MR. VIJAY BHAYANA

..... Appellant

Through: Mr.Anshu Mahajan with Mr.Ranjan
Kr. Rai, Advocates with the appellant
in person.

versus

MS. NISHA BATRA

..... Respondent

Through: Mr.Piyush Sanghi, Advocate with the
respondent in person.

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

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22.04.2015

The appellant and the respondent are present in Court. The respondent took a stand that she is willing to join back the company of her husband (appellant herein), while on the other hand, the appellant showed his complete disinclination. Although, both the parties took dramatically opposite stands to each other, yet the Court allowed them to have an interaction with each other at least for two hours and to see whether they could reach at some amicable solution. After permitting the parties to meet, the matter has been taken up again at 3 p.m. but with no difference in their stand.

The present appeal has been preferred by the appellant/husband

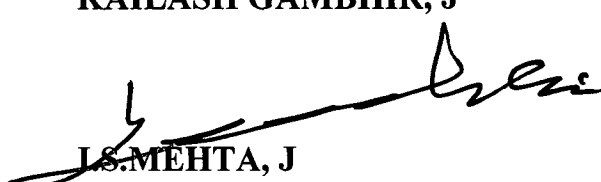
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challenging the order dated 09.04.2014 passed by the learned Principal Judge, Family Courts (South-East), Saket, New Delhi whereby the Family Court has disposed off the divorce petition filed by the petitioner/appellant under Section 13 B(2) of the Hindu Marriage Act, i.e., at the stage of second motion.

Indisputably, the respondent herein did not come forward to appear before the learned Family Court to give a statement in support of the petition filed under Section 13 B (2) of the Hindu Marriage Act and the learned Trial Court after placing reliance on the judgment of the Apex Court in the case of *Smruti Pahariya v. Sanjay Pahariya (2009) 13 Supreme Court Cases 338* dismissed the said petition filed by the parties.

Considering the fact that the respondent had not appeared before the Principal Judge, Family Court and, therefore, the Family Court had no occasion to know her exact stand. However, in the present appeal the respondent has again taken a stand that she is not prepared to give divorce to her husband and in fact has shown her willingness to join back the company of her husband and in this background of the facts this appeal filed by the appellant will not sustain and the same is hereby dismissed. The order passed by the learned Family Judge, Family Courts is accordingly affirmed.


KAILASH GAMBHIR, J


J.S. MEHTA, J

APRIL 22, 2015/ 'dc'