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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAT.APP.(F.C.) 46/2015, CM APPL. No. 7098/2015**

Date of Judgment : 8th December, 2015

POONAM SHARMA Appellant
Through : Mr. Syed Hasan Isfahani, Advocate.

versus

NIPUL SHARMA Respondent
Through : None.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

1. Order dated 03.01.2015 passed by the Family Court, is subject matter of the challenge, in this appeal. An application under Order IX Rule 13 of the Code of Civil Procedure read with Section 15 of Code of Civil Procedure filed by the appellant herein seeking recall of the ex-parte decree of divorce dated 13.01.2014, was dismissed for non prosecution. The order dated 03.01.2015 suggests that the attitude of the appellant herein was defiant and the appellant had chosen not to appear despite the directions of the Family Court.
2. Learned counsel for the appellant has explained that the words if spoken in court were primarily for the reason that the appellant was distressed as she was looking after her girl child who was sick and with no resources. Learned counsel for the appellant on instructions submits that the appellant would appear before the Family Court and follow the directions so passed.

3. Before the predecessor of this Court, the counsel for the appellant had sought to explain that the counsel had not stated “the Court may pass any order including dismissal of the application, but the applicant would not appear.” In those circumstances, the appellant was directed to move an appropriate application before the concerned Family Court. This is reflected in the order dated 20.04.2015.
4. Learned counsel for the appellant submits that in fact he has made an application for review and this Court may request the Family Court to take a sympathetic view in the matter having regard to the submissions made. He further submits that that in case, the review petition is dismissed for any reason the appellant would file a composite appeal before this Court.
5. Accordingly, we dispose of the present appeal along with all pending applications, at this stage. The Family Court will consider the application for review sympathetically and in the light of the observations made by this Court in its order. Leave granted, as prayed.
6. Copy of this order be given dasti under the signatures of Court Master, as prayed.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

DECEMBER 08, 2015

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