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

+ C.R.P. No.168/2016

SEEMA

..... Petitioner

Through: Mr. R.S. Tomar, Adv.

versus

AMIT KUMAR

..... Respondent

Through: Ms. Sumita Kapil and Ms. Pooja
Swami, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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02.08.2017

1. The counsel for the respondent states that the respondent has engaged her only recently and the earlier counsel for the respondent has not handed over the file as yet.
2. The respondent, stated to be present in person, has not paid the costs of Rs.15,000/- imposed on 27th July, 2017.
3. Payment of such costs was made pre-condition for the respondent to participate in this proceeding.
4. The respondent having not paid the costs and there being no satisfactory explanation therefor or for the reason for which costs were imposed on 27th July, 2017, the respondent is not entitled to participate in this proceeding.
5. The counsel for the petitioner has been heard. He is however requested to cite the case law in support of his proposition.
6. The counsel for the respondent states that she will explore the possibility of payment of costs on the next date of hearing.
7. If the costs are paid, the respondent shall be entitled to so participate.

8. At this stage, the counsel for the petitioner states that the impugned order, being based on conjecture and surmise and against the well established principles, be set-aside, and the Family Courts, Tis Hazari Courts, Delhi where the matter is now pending and is listed next on 10th August, 2017 be directed to hear the application of the petitioner for maintenance / *pendente lite* afresh.

9. The counsel for the respondent also states that as per the dicta in ***Kusum Sharma Vs. Mahinder Kumar Sharma*** AIR 2015 Del 53 the affidavits have to be filed and which have not been filed.

10. The counsel for the respondent is agreeable thereto.

11. Both, petitioner as well as the respondent to, on 10th August, 2017, before the Family Court, present their respective affidavits.

12. The order dated 8th September, 2015 of the Court of District Judge, Family Courts, Gurgaon, Haryana, from which the proceedings have been transferred to the Family Court, Delhi, dismissing the application of the petitioner wife under Section 24 of the Hindu Marriage Act, 1955 is set aside and the Family Court, Tis Hazari Courts, Delhi is requested to hear the application / prayer for interim maintenance afresh and to pass orders thereon.

13. The petition is disposed of.

14. In view of the above, the cost imposed on the respondent is waived.

Dasti under signature of Court Master.

RAJIV SAHAI ENDLAW, J

AUGUST 02, 2017

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