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

+ RFA(OS) 43/2013

SURYANARAYANA MURTHY SONTI

..... Appellant

Represented by: Mr.L.K.Upadhya, Mr.Vishwa
Bhushan Arya & Mr.Robin
George, Advocates

versus

INDIRA SONTI

..... Respondent

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **12.08.2016**

CM Nos.16751-53/2016

1. The appeal was dismissed in default on January 08 2016. Vide above captioned applications, restoration of the appeal, condonation of delay in filing application for restoration and delay in re-filing the applications are prayed for.
2. In spite of being served by publication the respondent has not appeared.
3. All the applications are allowed. Order dated January 08, 2016 is recalled and the appeal is restored for hearing afresh.

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1. We are a little perplexed at the conduct of the respondent. Having

obtained a favourable decree in proceedings initiated under Section 18 of the Hindu Adoption and Maintenance Act, 1956, requiring appellant to pay the sum decree and she has chosen not to seek execution of the main decree inspite of the decree not being stayed till order dated August 13, 2015 was passed.

2. The respondent is untraceable. She is not available at either address provided by her. Service has been effected by publication.

3. During the pendency of the proceedings in the suit the respondent got re-married on November 03, 2003. As per the main decree, maintenance has been granted from February 09, 2000 till November 03, 2003 @ US \$500 per month or its Indian equivalent.

4. Faced with the situated aforementioned and no assistance from the side of the respondent, whose conduct evince an attitude of abandonment we proposed to dispose of the appeal without adjudication on merits declaring that if the respondent was to seek execution of the decree within the limitation prescribed the appellant would be free to seek a revival of the appeal.

5. Lest the respondent takes a plea that she did not seek execution because the decree was stayed we vacate the stay.

6. No cost.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

AUGUST 12, 2016

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