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

+ **MAT.APP.(F.C.) 5/2016**

LAXMI

..... Appellant

Through : Mr.Md.Babar and Mr.Gaurav Shukla, Advs.

versus

VINOD SIVAN

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

% **08.01.2016**

CM APPL. 580/2016.

1. Exemption allowed subject to all just exceptions.
2. Application stands disposed of.

CM APPL. 579/2016 & CM APPL. 581/2016

3. CM Appl. 579/2016 has been filed by appellant seeking condonation of 199 days' delay in filing the present appeal and CM Appl. 581/2016 has been filed by appellant seeking condonation of 279 days' delay in re-filing the appeal.
4. Heard. For the reasons stated in the application and in the interest of justice, present applications are allowed. Delay in filing and re-filing the present appeal is condoned. Let appeal be taken on record.
5. Applications stand disposed of.

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6. Challenge in this appeal is to the order dated 26.7.2014 passed by the Family Court in HMA Petition No.544/2013, by which the application filed by the appellant herein under Order VII Rule 11 of the Code of Civil Procedure and the application filed by appellant under Section 340 of the Code of Criminal Procedure stand dismissed.

7. Learned counsel for the appellant submits that the appellant has taken a categorical stand in the petition filed by the respondent before the Family Court for restitution of conjugal rights that the parties herein are not married and the marriage, if any, is void. Counsel further submits that the respondent has not placed on record a single document or any photograph to *prima facie* show that either the marriage was performed between them at Shiv Mandir Gufa Wali, Preet Vihar, Delhi, on 26.3.2012 or any other day, or the parties resided together. Counsel also submits that the appellant is being harassed by the respondent, who has filed a false petition against her.
8. After some hearing in the matter, learned counsel for the appellant submits that the appellant would make an application before the Family Court for framing of preliminary issue and prays that a direction be issued to the Family Court to decide the preliminary issue expeditiously.
9. Without expressing any opinion on the merits of the matter, in case the appellant files an application before the Family Court for framing of preliminary issue with regard to maintainability of the petition, we request the Family Court to decide the same as expeditiously as possible but not later than three months from the date of filing of the application.
10. Appeal stands disposed of in view of above.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

JANUARY 08, 2016

msr /

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