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

+ **TR.P.(C).27/2015**

MEETA SACHDEVA

..... Appellant

Through: Ms. Malvika Rajkotia with Mr. Ankur Mahendru and Ms. Megha Agarwal, Advocates.

versus

ASHISH BHARTI

..... Respondent

Through: Ms. Beenashaw N. Soni, Advocate.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

ORDER

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08.01.2016

1. This is a transfer application filed by the petitioner for transfer of HMA No. 383/2013 filed under Section 13(1) (i), 13(i) (ia) and 13 (i) (v) of the Hindu Marriage Act, 1955 seeking divorce on the ground of cruelty, from the family court of Smt. Bimla Kumari to any other family Judge, Rohini.

2. I have heard learned counsel for the parties. I have also gone through the record.

3. On 19.02.2015 the following order was passed with the consent of the parties in CM(M) No.94/2015:-

"1. With the consent of the parties, the present petition is disposed of with the direction to the learned Family Judge to dispose of the application under Section 26 of the Domestic Violence Act, 2005 as well as the application under Section 24 of the Hindu Marriage Act, 1955 as expeditiously as possible and preferably before 15.04.2015.

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2. *I have been informed that the learned Family Judge has already heard the arguments on behalf of the petitioner on the application under Section 26 of the Domestic Violence Act, 2005 and the matter is now fixed on 17.03.2015 for arguments on behalf of the respondent.*

3. *So far as the application under Section 24 of the Hindu Marriage Act, 1955 is concerned, the learned counsel for the respondent seeks further a week's time to obtain requisite information for the purpose of filing an affidavit with regard to the assets and income of the respondent, who is stationed in Dubai. The said affidavit shall be filed by the respondent in the Family Court instead of this court with an advance copy to the petitioner who may file response thereto within a week thereafter.*

4. *The respondent shall be at liberty to refute any information furnished by the petitioner by filing an additional affidavit in case there is a need for the same.*

5. *With these directions, the petition stands disposed of.*

6. *The trial court record be sent back.*

7. *A copy of the order be given dasti to the learned counsel for the parties."*

4. Perusal of the order would show that there was a specific direction that the application under Section 26 of the Protection of Women from Domestic Violence Act, 2005 and Section 24 of the Hindu Marriage Act 1955 should be decided by the learned family judge, as expeditiously as possible and preferably before 15.04.2015.

5. It has been brought to the notice of this court that both these applications are still pending adjudication. The learned senior counsel for the petitioner Ms. Rajkotia has stated that these application have not been decided on account of the fact that the learned presiding officer was on leave on as many as four occasions, apart from the fact that the family court has a

very high pendency.

6. Ms. Beenashaw N. Soni, learned counsel for the respondent has vehemently contested the same and contended that there has been absolutely no delay on the part of the respondent in disposal of these applications on the contrary the applications could not be decided by the learned presiding officer in terms of the order dated 19.02.2015, because the petitioner kept on filing fresh applications, one of which included the return of the passport to the petitioner of her two daughters, so as to enable her to travel to India, because of which these two applications got relegated to the background. It has also been stated that learned Family Judge has also recorded the reasons for not being in a position to dispose of the application with regard to fixation of maintenance under Section 24 for want of rejoinder to the affidavit of the respondent with regard to his income.

7. Be that as it may, the fact of the matter remains that there are allegations and counter allegations from both sides, which are not necessary to be gone into for determination as to what were the reasons for non-disposal of both these applications, it was essentially for the learned Judge to have followed the orders of this court, both in letter and spirit and taken up the matter in its proper perspective to dispose of the applications as expeditiously as possible in terms of the order dated 19.02.2015. Having failed to do so, I feel by simply going into the reasons, which have resulted in non-disposal of these application, will not serve any purpose. Therefore, the interest of justice in my opinion would be better subserved in case the present matter is transferred to another family judge located in the same District Court Complex.

8. I have been informed that in addition to Ms. Bimla Kumari, Family Judge, there are three more family judges at Rohini District Courts, though in different districts. I feel the interest of justice would require in case the

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matter is transferred from the court of Smt. Bimla Kumari, Family Judge to the court of Mr. Girish Kathpalia, Family Judge, in order to decide all the pending applications including the applications under Section under Section 26 of the Protection of Women from Domestic Violence Act, 2005 and Section 24 of the Hindu Marriage Act, 1955 as expeditiously as possible and preferably within a period of six weeks from today.

9. Learned counsel for the respondent has stated that she has already filed an application for grant of visitation rights to the respondent/father in respect of two minor children, who have been brought to India by the petitioner, with the clear understanding that they would be returning back to Dubai, where they were ordinarily residing. It has been stated since the petitioner and the children have not gone back to Dubai, therefore, the respondent has been deprived of his visitation rights. Advance copy of the application has also been served on the learned counsel for the petitioner. Learned counsel for the petitioner has assured that the reply will be filed before the next date of hearing, so as to enable the court to decide that application also. It is expected that the learned Family Judge will also endeavour to decide the aforesaid application for grant of visitation rights along with the other applications pending, as expeditiously as possible.

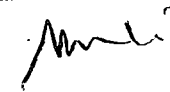
10. Parties are directed to appear before the learned transferor court on 14th January, 2016.

11. With these directions, the present petition stands allowed.

12. Copy of the order be given dasti to learned counsel for the parties.

13. Copy of the order be also sent to transferor and transferee Court.

14. Trial court record be also sent back to the court of Smt. Bimla Kumari through special messenger.


V.K. SHALI, J.

JANUARY 08, 2016 / N

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