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IN THE HIGH COURT OF DELHI AT NEW DELHI

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MAT.APP.(F.C.) 65/2015

PARUL NAHAR

..... Appellant

Through: Ms. Parul Nahar, appellant in person.

versus

SOUMITRA KUMAR NAHAR

..... Respondent

Through: Mr. Rajesh Ranjan with Mr. Attin Shankar
Rastogi, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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13.10.2017

CM APPL.47362/2016

The application seeks directions pursuant to the Court's order dated 03.08.2016. By that order, the Court had set aside the Family Court's order rejecting the wife's application to set aside an order (dated 21.02.2015), setting her down *ex parte* in the proceedings initiated by her husband. It is highlighted that the non-applicant had not complied with the Court's order and instead has repeatedly sought adjournments. The applicant has relied upon the Trial Court's records and submits that despite several dates of hearing, no sufficient progress had been achieved.

Non-applicant, while, on the other hand, contends that the directions to pay maintenance have been flouted. It is stated in this respect that five months' maintenance *pendente lite* have not been deposited or paid. She also submits that respondent/husband has needlessly blamed her for the

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delay in the proceedings.

During the course of hearing, both parties - since the respondent is present in the Court - expressed their willingness that the depositions be recorded before the Local Commissioner and the conduct of proceedings before the Local Commissioner hereafter may be video recorded for the sake of reflecting accuracy.

Having regard to the totality of circumstances and given that a former judicial officer has been appointed to function as the Local Commissioner in this case and furthermore given that the proceedings had been pending for over six years, the Court is of the opinion that the Local Commissioner should record the depositions of the witnesses relied upon by the parties. This Court had by its final order dated 03.08.2016 limited the testimonies of the parties to five witnesses on behalf of the appellant/wife and six witnesses on behalf of the respondent/husband. The appellant/wife had complained that in the pretext of listing six witnesses, the husband has introduced five more under the head of "serial no.6". This Court is of the opinion that such pretext cannot be permitted. It is, therefore, clarified that the respondent/husband cannot lead or rely upon more than six witnesses in all.

In view of the above, the Court hereby directs that: -

- (1) The Local Commissioner shall conduct day to day hearings - except on the date or dates inconvenient to him and shall make all endeavors to record the evidence of the parties so as to conclude it within the next three months.
- (2) In view of the parties' agreement to have the proceedings recorded through video, the parties shall cooperate in ensuring that the video recording of their evidences is done,

especially of the depositions of the witnesses relied upon by either of them. It is clarified that the video recording of the proceedings shall be in respect of the depositions to be recorded hereafter. In other words, the depositions of witnesses conducted till date shall not in any manner re-open.

- (3) The conduct of the proceedings before the Local Commissioner shall not be in any way be stopped or stalled to await the decision of the Court with respect to either the deposit of the cost or with respect to the payment of maintenance.

In case the appellant has any subsequent grievances with respect to non-payment of maintenance, it is open to her to agitate it in the pending proceedings. However, the proceedings before the Local Commissioner shall not be stalled on that score.

The application stands disposed of.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

OCTOBER 13, 2017

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