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

+ **MAT.APP.(F.C.) 146/2016**

**POONAM**

..... Appellant

Represented by: **Mr.K.D. Saini, Advocate.**

versus

**PANKAJ JOSHI**

..... Respondent

Represented by: **None.**

**CORAM:**

**HON'BLE MR. JUSTICE PRADEEP NANDRAJOG**

**HON'BLE MS. JUSTICE PRATIBHA RANI**

**ORDER**

% **07.10.2016**

CM No.37753/2016

Allowed subject to all just exceptions.

MAT.APP.(F.C.) 146/2016

1. We find no infirmity in the order dated October 09, 2016 which has settled the following three issues:

(i) *Whether the respondent was having a spouse living at the time of her marriage with the petitioner herein and the marriage of the petitioner with the respondent was in contravention of the sub-section (i) of the Section 5 HMA?*  
**OPP**

(ii) *Whether the petitioner is entitled to the relief sought for and is entitled to a decree of nullity of marriage u/s 11 HMA?*  
**OPP**

(iii) *Relief.*

2. Needless to state the issue of customary divorce pleaded by the appellant would require the appellant to prove a custom and the divorce thereunder.
3. As regards the proceedings dated June 01, 2016 in which appellant's statement under Section 165 of the Evidence Act was recorded, though a grievance is made in the appeal, we find that the said order dated June 01, 2016 has not been challenged. Thus, we clarify that we have not expressed any opinion regarding the legality of appellant's statement recorded by the learned Judge on June 01, 2016.
4. The appeal is dismissed.
5. No costs.

**PRADEEP NANDRAJOG, J.**

**PRATIBHA RANI, J.**

**OCTOBER 07, 2016**  
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