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

+ CM(M) 1217/2016

CHAMAN LAL

..... Petitioner

Represented by: Mr. Shalabh Gupta, Advocate

versus

SUNITA

..... Respondent

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **01.12.2016**

CM No.44108/2016

Allowed subject to just exceptions.

CM (M) No.1217/2016

1. We are finding that in spite of law being laid down with clarity four years back, every month, either matrimonial appeals are being directed to treat as Civil Miscellaneous Mains and virtually every week a Civil Miscellaneous Main is being directed to be treated as an appeal.

2. Since law is very clear we dismiss the instant Civil Miscellaneous Main observing that the petitioner's right would be to file an appeal for the reason grievance relates to an order dated May 17, 2016 disposing of an application filed under Section 24 of the Hindu Marriage Act, 1955.

3. It is not so innocent to treat Civil Miscellaneous Mains as appeals for

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the reason there is no limitation prescribed to file a Civil Miscellaneous Main. If instant petition was filed as an appeal issue of limitation would have arisen because certified copy of the impugned order dated May 17, 2016 was applied for on June 04, 2016. It was made available to the counsel on August 22, 2016. Instant petition was filed on November 15, 2016.

4. Dismissing the Civil Miscellaneous Main as not maintainable, liberty is granted to the petitioner to file an appeal.

CM No.44107/2016

Dismissed.

PRADEEP NANDRAJOG, J.

YOGESH KHANNA, J.

DECEMBER 01, 2016

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