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

+ **CONT.CAS(C) 1146/2016**

MANPREET SINGH

..... Petitioner

Through Ms.Aekta Vats, Advocate.

versus

GURPREET KAUR

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

% **02.01.2017**

C.M.No.48164/2016

Present application has been filed for deletion of petitioner's counsel statement dictated in Open Court on 25th October, 2016.

Though it is difficult to accept what the petitioner states, yet as it makes no difference to the reasoning in the said order and as this Court does not recall as to what transpired in the Court due to passage of time, it allows the present application to the extent it seeks deletion of the statement "*and is not allowing the petitioner to meet his minor son.*"

Consequently, the order dated 25th October, 2016 shall read as under:-

"Present contempt petition has been filed alleging wilful disobedience of the Settlement Agreement dated 9th February, 2016, whereby the petitioner-husband agreed to pay Rs.15,000/- per month to the respondent-wife and respondent-wife agreed to withdraw all her complaints filed against the

petitioner-husband.

Learned counsel for petitioner states that despite the aforesaid Settlement Agreement, respondent-wife has not withdrawn the complaint pending before the Trial Court.

A perusal of the paper book reveals that neither the Mediation Settlement was taken on record nor an order or undertaking in terms thereof was passed or accepted.

*The Supreme Court in **Afcons Infrastructure Limited and another vs. Cherian Varkey Construction Company Private Limited and Others**, (2010) 8 SCC 24 has held that there cannot be a contempt on account of disobedience of a mediation settlement unless and until it is accepted by the Court. The relevant paras of the said judgment are reproduced hereinbelow:*

“39. Where the reference is to a neutral third party (“mediation” as defined above) on a court reference, though it will be deemed to be reference to Lok Adalat, as the court retains its control and jurisdiction over the matter, the mediation settlement will have to be placed before the court for recording the settlement and disposal. Where the matter is referred to another Judge and settlement is arrived at before him, such settlement agreement will also have to be placed before the court which referred the matter and that court will make a decree in terms of it.

40. Whenever such settlements reached before non-adjudicatory ADR fora are placed before the court, the court should apply the principles of Order 23 Rule 3 of the Code and make a decree/order in terms of the settlement, in regard to the subject-matter of the suit/proceeding. In regard to matters/disputes which are not the subject-matter of the suit/proceedings, the court will have to direct that the settlement shall be governed by Section 74 of the AC Act (in respect of conciliation settlements) or Section 21 of the Legal

Services Authorities Act, 1987 (in respect of settlements by a Lok Adalat or a mediator). Only then such settlements will be effective.”

In view of the aforesaid judgment of the Supreme Court, present contempt petition is dismissed as not maintainable”.

MANMOHAN, J

JANUARY 02, 2017
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