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

+ **CRL.REV.P. 831/2017 & CrI. M.A. No.18033/2017**

S G VATS

..... Petitioner

Through: Mr. Abhijat, Ms. Dakshaa Arora and
Mr. Shaashwat Jindal, Advocates.

Versus

NEENA & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **06.11.2017**

1. By way of this petition under Section 397 read with Section 401 and Section 482 of the Code of Criminal Procedure, 1973, the petitioner seeks quashing of the order dated 04.09.2017 passed in Mt. Case No. 731/2014 by the learned Additional Principal Judge, Family Courts, Tis Hazari Court, Delhi, on the ground that since the Court notice issued to the petitioner remained unserved, the case could not have been dismissed in default of appearance on behalf of the petitioner.

2. The Court finds this argument untenable and notes that the petitioner was well aware of the proceedings going on against him, and had been participating in the same since 28.09.2007; he had failed to appear once on 02.11.2007; but thereafter entered appearance either through counsel or in person on 07.02.2008, 07.04.2008, and 12.06.2009. Despite having been proceeded against *ex parte* on two previous occasions, the petitioner was

accorded further opportunity to cross-examine respondent no.1 on 22.03.2014. The petitioner last appeared before the Court on 11.12.2015, but thereafter repeatedly failed to enter appearance on 04.03.2016, 22.09.2016, 12.01.2017, 20.04.2017, 24.05.2017, 28.07.2017 and 04.09.2017.

3. The impugned order notes as under:

"10... The respondent did not appear on 04-03-2016 and 22-09-2016. On 12-01-2017 court notice was ordered to be issued to the respondent for 20-04-2017 on which date, the process came back with the report that he is no more residing there. The respondent was aware of the court proceedings and had been appearing on few dates. He did not inform the change of his address. He had been misusing the process of law just to avoid maintaining the petitioners which shows his neglect in loud form. Attention of both the parties was also invited to the order dated 14-01-2015 in FAO No. 369/1996 in case titled Kusum Sharma Vs Mahinder Kumar Sharma by Hon'ble Justice Mr JR Midha and they were asked to file affidavits at Annexure A. On 24-05-2017 the petitioner no. 1 was though present for her cross-examination, the respondent being ex-parte she was discharged. No affidavit in terms of Kusum Sharma's case was filed by either party. However, pay slip of June, 2017 of the respondent has been placed on record by the counsel for the petitioner."

4. The petitioner has failed to provide sufficient or reasonable cause for his continued non-appearance in the proceeding. Knowingly or deliberately disregarding court proceedings by a party to the litigation or voluntarily ceasing to participate in the proceedings cannot enure to the benefit of the defaulting party. By his own admission in the petition, the plaintiff

did not keep track of the proceedings. Such negligence and misuse of the process of law cannot be condoned. The Court finds no reason to interfere with the impugned order. The petition is, accordingly, dismissed.

NAJMI WAZIRI, J

NOVEMBER 06, 2017

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