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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.REV.P. 948/2017 & CRL. M.A. 20998/2017, CRL M.A. 20999/2017

PRASHANT DEWAN

..... Petitioner

Through: Mr. Bhavesh Kumar Sharma,
Advocate.

versus

JYOTSNA & ANR.

..... Respondents

Through: Counsel for the respondent.
(appearance not given)

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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19.12.2017

The matrimonial lis between the parties had been disposed off by an order of 3rd April, 2017 on the basis of a settlement. The petitioner sought a modification of that order. His plea was dismissed. This petition impugns the said dismissal order dated 17.07.2017 passed by Principal Judge (South), Family Courts, Saket in case no. 103/2016; on the ground that although a settlement was recorded on that date in the Court, but the petitioner was nervous and did not understand the niceties of court procedure or the consequences of the settlement.

It is not in dispute that the said statement of settlement was given in the presence of the petitioner's counsel. The petitioner is a post graduate in Mechanical Engineering and about 32 years old. Bearing in mind that the petitioner, a government servant working as a Scientific Officer in the Board of Radiation & Isotope Technology (BRIT), Mumbai, the impugned order

rejected the contention that the present petitioner could not understand the import of his statement. It is recorded as under:-

*“Present:- Ms. Nidhi Bindra, counsel for the petitioner
Sh. Samit Khosla, counsel for the respondent*

The matter stood settled and disposed of; in terms of statement of parties recorded on 03.04.2017, however, subsequently, the file was taken up again on application moved by the respondent seeking modification of the order dated 03.04.2017.

The present application seeks modification of the order on the ground that respondent on 03.04.2017 was scared and nervous and on account of the nervousness, he could not bring complete facts regarding his income & expenditure to the notice of the court and subsequently on careful calculation of the expenses viz-a-viz income, respondent has observed that it will not be possible for him to pay the maintenance at the rate of Rs.20,000/- per month.

It is also submitted by Sh. Khosla that respondent was not released yearly incentive of Rs. 1 Lakh, which was not taken into consideration by the Court.

Heard.

This court without issuing notice of the present application to the petitioner had desired the presence of the respondent in the court and accordingly, adjourned the matter for today. The presence of respondent was desired specifically in the circumstances, when respondent is an educated person and working as a Scientific Officer in BRIT, Mumbai, Maharashtra. He is a Govt. employee and Post Graduate in Mechanical Engineering and almost 32 years of age.

There was no occasion for the respondent to have been under any coercion and undue influence, when his statement was recorded. The person, who is a responsible officer in Government, knows the consequences of making a statement before the court. He is not an uneducated person or a naive, who would not understand the consequences of his statement. Application is apparently misconceived and ill advised.

Absence of respondent on a specific direction for his

presence, empowers the court to proceed u/o 9 Rule 12 CPC and dismiss the application on his non-appearance alone.

However, as noticed above, there was no reason for the respondent to have been scared of the court or being nervous. A responsible Government employee can not be allowed to wriggle out of his statement made in the court, on misconceived notions. The application is, therefore, dismissed. Court is, however, holding its hand from imposition of costs, as notice of the application was not issued to the petitioner.

Ms. Bindra has entered appearance on her own, as she had come to know of the present application on 15.07.2017, when she appeared in other connected proceedings between the parties.

File be consigned to record room.”

The petitioner holds a post-graduate degree. He works as a Scientific Officer for a specialized government agency. He appeared in Court and his statement of settlement of the lis was recorded freely in the presence of his counsel. To say that he did not fathom the import of his statement is implausible and untenable.

In view of the above, the Court finds no reason to interfere in the impugned order. The petition, along with pending applications, stands dismissed.

NAJMI WAZIRI, J

DECEMBER 19, 2017

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