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

+ CM(M) 471/2018 & CM No.16112/2018

P Petitioner
Through: Mr. Bharat Bhushan Dhingra, Adv.
along with petitioner in person.
versus

G Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

% **ORDER**
24.04.2018

1. The respondent instituted the petition for dissolution of marriage on the ground of cruelty against the petitioner in which the parties entered into a written settlement to dissolve the marriage by mutual consent. Learned Family Court disposed of the petition in view of the settlement between the parties on 17th August, 2017.
2. As per the settlement, the first motion was required to be filed in first week of October, 2017. However, the petitioner did not agree for filing the first motion on the ground that she had executed the settlement under force.
3. The respondent filed an application dated 25th November, 2017 before the learned Family Court for restoration of the divorce petition.
4. Vide order dated 23rd March, 2018, learned Family Court allowed the application and restored the divorce petition.
5. Learned counsel for the petitioner submits that no liberty was taken by the respondent to seek restoration of the divorce petition in the event of the settlement not being implemented and, therefore, the respondent cannot seek restoration. It is submitted that the petitioner has no objection if the

respondent instituted a fresh petition for dissolution of marriage. The respondent relies upon the settlement which records that the respondent shall institute a fresh petition in case of violation of the settlement.

6. There is no merit in the contention of the petitioner. The petitioner has herself challenged the settlement as being under force and, therefore, she cannot rely on the alleged settlement to contend that the respondent should institute a fresh petition. That apart, the petitioner's objection appears to be only to delay the proceedings and no useful purpose would be served if the respondent files a fresh petition. Having changed her mind after entering into written settlement before Court, it is not fair on the part of the petitioner to object to the restoration of the divorce petition filed by the respondent. Rather the petitioner should gracefully contest the proceedings on merits.

7. Learned counsel for the petitioner submits that the respondent has threatened the petitioner outside the Court premises on 18th January, 2018. The petitioner is at liberty to avail legal remedies available to her in accordance with the law and no orders are warranted in this petition which is limited to the challenge to restoration of the divorce petition.

8. This petition as well as CM No.16112/2018 is dismissed.

9. Copy of this order be sent to the respondent.

10. Copy of this order be sent to the learned Family Court.

11. Copy of this order be given *dasti* to counsel for the petitioner under signature of Court Master.

J.R. MIDHA, J.

APRIL 24, 2018

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