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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ MAT.APP. 107/2008 & CM No.18778/2018 (for dismissal of appeal
for non payment of maintenance)
ANIL KUMR GAUTAM Appellant

Through: Appellant in person.

Versus

UNDU GAUTAM @ INDU GAUTAM Respondent
Through: Mr. T.S. Ahuja & Mr. Varun Ahuja,
Advvs.

AND

+ MAT.APP. 9/2012
UNDU GAUTAM @ INDU GAUTAM Appellant
Through: Mr. T.S. Ahuja & Mr. Varun Ahuja,
Advvs.

Versus

ANIL KUMAR GAUTAM Respondent
Through: Respondent in person.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **16.07.2018**

1. MAT.APP. 107/2008 impugns the *ex parte* judgment [dated 23rd May, 2008 of the Court of Additional District Judge (ADJ), Karkardooma Courts, Delhi] of dismissal of HMA No.125/2007 filed by the appellant under Section 13(1)(ia) of the Hindu Marriage Act, 1955 for dissolution of his marriage with the respondent.
2. Notice of MAT.APP. 107/2008 was issued and the counsel for the respondent has been appearing.
3. MAT.APP. 107/2008 was admitted for hearing on 22nd July, 2009.

4. MAT.APP. 9/2012 impugns the judgment and decree [dated 21st November, 2011 of the Court of ADJ, Karkardooma Courts, Delhi] allowing HMA No.02/2010 filed by the respondent / husband for dissolution of his marriage with the appellant / wife under Section 13(1)(1b) of the Hindu Marriage Act.

5. MAT.APP. 9/2012 came up before this Court first on 10th February, 2012 when notice thereof was ordered to be issued and the operation of the judgment and decree stayed. MAT.APP. 9/2012 was also admitted for hearing on 25th July, 2014.

6. Today, one person claiming to be Anil Kumar Gautam appears in person and on enquiry states that though he has an advocate but he is not present today. The said person on enquiry has handed over to the Court Master his identity card issued by the Directorate of Education, Government of NCT of Delhi and the Court Master confirms that the photograph thereon is of the person present in the Court. Original identity card has been returned to Mr. Anil Kumar Gautam and a photocopy thereof is kept on record.

7. The wife Undu Gautam @ Indu Gautam along with advocate appears and the advocate for wife Undu Gautam @ Indu Gautam states that he identifies husband Anil Kumar Gautam present in Court.

8. The counsel for wife Undu Gautam @ Indu Gautam further states that besides wife Undu Gautam @ Indu Gautam, two major children viz. Siddharth Gautam and Tushar Gautam of the parties are also present in the Court.

9. Husband Mr. Anil Kumar Gautam states that he does not want to continue fighting his wife and children and withdraws MAT.APP. 107/2008 and wants MAT.APP. 9/2012 to be allowed by setting aside of the decree for divorce granted therein.

10. The counsel for the wife confirms that the husband has been wanting so and has also given a statement in the proceedings under Section 125 Cr.P.C. that he is willing to maintain his wife and children. It is also stated that the husband since then has been paying maintenance at the rate of Rs.25,000/- per month and looking after the welfare of the children. The counsel for the wife however states that husband Mr. Anil Kumar Gautam, after the decree of divorce under Section 13(1)(ib), has already re-married.

11. Husband Mr. Anil Kumar Gautam, who states that he is the Principal of Ramjas School, Chandni Chowk, Delhi, states that although he had re-married but he has separated from the wife on re-marriage and now wants to live with Undu Gautam @ Indu Gautam.

12. Once husband Anil Kumar Gautam is withdrawing MAT.APP. 107/2008 and conceding to MAT.APP. 9/2012 being allowed, wife Undu Gautam @ Indu Gautam ought not to have any objection.

13. Accordingly, MAT.APP. 107/2008 is dismissed as withdrawn and with the consent of the husband Anil Kumar Gautam, the judgment and decree impugned in MAT.APP. 9/2012 is set aside, thereby allowing MAT.APP. 9/2012.

14. The parties are left to bear their own costs.

Decree sheets be drawn up.

No costs.

JULY 16, 2018
'gsr'

RAJIV SAHAI ENDLAW, J