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

+ LPA 448/2018
SUNITA DEVI

..... Appellant

Through: Mr.Shesh Datt Sharma, Advocate

versus

STATE (GOVT OF NCT DELHI) & ORS.

..... Respondents

Through: Ms.Avnish Ahlawat, standing counsel,
GNCTD (services) and Ms.Palak
Rohmetra, Adv. for R-1 and R-2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **17.08.2018**

C.M.33019/2018 (exemption)

Exemption is allowed subject to just exceptions.

Application stands disposed of.

C.M.33020/2018 (delay)

This is an application filed by the appellant seeking 466 days delay in filing the present appeal.

Heard. Counsel for the respondent enters appearance on an advance copy. The prayer made in the application is not opposed. Accordingly, delay of 466 days in filing the present appeal is condoned.

The application stands disposed of.

LPA 448/2018, C.M.33021/2018 (stay)

Counsel for the appellant submits that the necessity for filing this appeal has arisen on account of the fact that the writ petition filed by him seeking release of the payment of death-cum-terminal benefits of her late husband has been dismissed as withdrawn by an order dated 22.02.2017 with liberty to approach the civil court. Counsel for the appellant submits that post the

dismissal of the writ petition, he filed a suit for declaration, mandatory and permanent injunction in the court of the District Judge (East). The matter came up for hearing before the District & Sessions Judge on 18.05.2017 when he directed the matter to be placed before the Principal Judge, Family Court, Shahdara. He further submits that the Family Court, Shahdara by an order of 09.04.2018 has directed the matter to be listed before the District & Sessions Judge, Shahdara as according to him the Family Courts would not have jurisdiction over the matter. The complaint of the appellant is that neither of the two courts i.e. the District & Sessions Judge nor the Family Court, have entertained the suit.

We have heard learned counsel for the appellant and examined the order dated 18.05.2017 passed by the District & Sessions Judge, Shahdara directing the matter to be listed before the Family Court and the order dated 09.04.2018 of the Family Court directing the parties to appear before the District & Sessions Judge, Shahdara. Pursuant to the order dated 09.04.2018 passed by the Family Court, Shahdara, the order-sheets reveal that the matter was listed before the District & Sessions Judge, when the suit has been registered and adjourned for 09.07.2018. Learned counsel for the appellant has submitted that the suit filed by the appellant pertains to recovery of terminal benefits and pension of the deceased Sh.Hari Ram. Since the dispute is between the appellant and the employer of the husband, the matter would be decided by the District & Sessions Judge and not by the Family Court.

With these observations, the appeal is disposed of.

G.S.SISTANI, J

ANU MALHOTRA, J

AUGUST 17, 2018/rb