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

+ C.R.P. 100/2016 and CM 25340/2016 and 25341/2016

ANNU KHANNA

..... Petitioner

Through: Mr. Jitender Chaudhary and Ms. Shilpa Chauhan, Advocates

versus

RAHUL KHANNA

..... Respondent

Through: Mr. M.P. Sharma, Advocate with respondent in person

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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19.02.2018

The petitioner is the defendant in the civil suit (suit no.42/2012) which was instituted by the respondent (plaintiff) on 29.02.2012 praying for decree of mandatory injunction to direct her (defendant / petitioner) to “take away her *istreedhan*” as per the list annexed with the plaint. The order under challenge was passed on 03.10.2015 whereby the right of the petitioner / defendant to lead defendant evidence was closed, the application for review filed there against having been dismissed by order dated 04.04.2016.

Though it appears that there have been some lapses on the part of the petitioner in properly prosecuting her defence in the civil suit, it has to be borne in mind that on account of efforts to amicably resolve the dispute between the parties – wife and husband – the proceedings were derailed for some time.

In the above facts and circumstances, the impugned order appears to be harsh and therefore, deserves to be set aside. Ordered accordingly.

The right of the petitioner to lead defendant's evidence is revived. She will be granted appropriate opportunity by the trial judge.

Having regard to the prayer clause in the suit, this court is *prima facie* of the opinion that the learned trial judge should first consider the maintainability of the suit in the civil court in view of the provision contained in clause (d) of the explanation to Section 7(1) of the Family Courts Act, 1984 before proceeding further.

The petition and the applications filed therewith are disposed of with these directions.

R.K.GAUBA, J

FEBRUARY 19, 2018

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