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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 845/2018 & CM No.29576/2018 (for stay).
BHAWANA SHARMA Petitioner
Through: In person.
versus
SHYAM SUNDER SHARMA Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **25.07.2018**

CM No29577/2018 (for exemption).

1. Allowed, subject to just exceptions.
2. The application stands disposed of.

CM(M) 845/2018 & CM No.29576/2018 (for stay).

3. This petition under Article 227 of the Constitution of India impugns the order [dated 19th July, 2018 in H.M.A. No.133/16 of the Court of Judge, Family Courts (West), Delhi] directing the appellant to conclude final arguments in the divorce petition filed by respondent / husband, on 24th July, 2018 and seeks a direction to the Family Court to dispose of the application dated 23rd May, 2018 filed by the petitioner / wife for stay of divorce proceedings and the application dated 22nd August, 2012 under Section 24 of the Hindu Marriage Act, 1955 filed by petitioner / wife for enhancement of maintenance *pendente lite*.

4. The petition has been filed by the petitioner / wife in person and the lady appearing when the matter is called out says that she is the petitioner/ wife in this case and has been pursuing the litigation herself and will argue in person. The petitioner / wife has been heard.

5. Divorce petition before the Family Court, from which this petition arises, is of 2001 vintage and from the impugned order dated 19th July, 2018 it is clear that it was ordered to be listed next for remaining final arguments on 24th July, 2018. The petitioner / wife, on enquiry states that yesterday i.e. on 24th July, 2018, the Judge Family Court has put up the divorce petition before him for final orders on 17th August, 2018 giving liberty to the petitioner / wife to, if so desires, file written arguments by 14th August, 2018.

6. Considering that the divorce petition from which this petition arises is seventeen years old and is now at the final stage and further considering the nature of the applications of which the petitioner / wife is seeking consideration before addressing final arguments, it is felt that this Court, in exercising the discretionary jurisdiction, ought not to interfere at this stage and this petition be disposed of with liberty to the petitioner / wife to, if remains aggrieved from the final order of the Family Court, in remedy thereagainst, also challenge the order dated 19th July, 2018 impugned in this petition.

7. I may record that the reason pleaded for seeking stay of divorce proceedings was non-payment of entire maintenance amount ordered. It is always open to the petitioner / wife to enforce/execute the said order of payment of maintenance and similarly it will be open to the petitioner / wife to, in future proceedings if any pursuant to the final judgment / order of the Family Court, seek enhancement in maintenance.

8. The petition is dismissed with liberty to the petitioner / wife to, in the challenge if any, whether it be by the petitioner / wife or the respondent/ husband, to the final judgment of the Family court in H.M.A. No.133/16,

also impugn the order dated 19th July, 2018 and with further liberty to the petitioner / wife to, in the final arguments to be addressed / submitted before the Family Court, also urge that the respondent / husband is in default of payment of maintenance he has been ordered to pay.

No costs.

RAJIV SAHAI ENDLAW, J

JULY 25, 2018

‘pp’