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

+ CM(M) 1154/2018

SAJILI VASISHT

..... Petitioner

Through: Mr. Vishal Singh and Mrs. Jyoti
Kataria Bajaj, Advs.

versus

ADITYA AGARWAL

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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24.09.2018

CM No.38984/2018 (for exemption).

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

CM(M) 1154/2018.

3. This petition under Article 227 of the Constitution of India impugns the order [dated 5th September, 2018 in H.M.A. No.1197/2018 of the Principal Judge, Family Court, Saket, New Delhi] of issuing notice of the petition under Section 12(1)(a) and 12(1)(c) of the Hindu Marriage Act, 1955 filed by the petitioner wife for annulment of her marriage with the respondent husband for 11th December, 2018.

4. The petitioner wife is aggrieved by the long date for which notice has been given.

5. It is not the case that the Family Court has indulged in any arbitrariness or discrimination in giving the long date to the petitioner wife. Without the same, this Court, in exercise of supervisory jurisdiction, cannot regulate the diary of the courts under its supervision. The petitioner wife

cannot be given precedence over other older cases pending before the Court merely because the petitioner has the financial ability to approach the High Court.

6. However the petitioner wife has also pleaded that the petition was filed on 18th August, 2018 and was listed only on 5th September, 2018 i.e. after 17 days of filing. On enquiry of the reason therefor, the petitioner wife states that the practice being followed by the Principal Judge Family Court, is of first listing the petitions after such delays.

7. The delay of 17 days in listing of the petition is not satisfactory. A copy of this order be forwarded to the concerned Court to look into the said aspect and to ensure that the first listing of the fresh petitions filed is not so delayed, particularly when considering the nature of the petition, only a notice thereof has to be issued.

8. The counsel for the petitioner wife on enquiry whether notice of the petition before the Family Court ordered to be issued has been served on the respondent husband states that he is not aware but the process fees has been filed.

9. The aforesaid conduct of the petitioner wife also does not entitle petitioner wife to any indulgence. The petitioner wife, if in a hurry, ought to have availed of the *dasti* summons ordered to be issued and ensured service of the respondent husband.

10. The counsel for the petitioner wife has also expressed urgency urging the peculiar facts of the case.

11. It will be open to the petitioner wife to, in the event of the respondent husband being found to be served on 11th December, 2018, urge the same urgency before the Family Court.

12. With the aforesaid, the petition is disposed of.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 24, 2018

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